

**BEAR RIVER BAND
OF THE ROHNERVILLE RANCHERIA
PROTECTION ORDER ORDINANCE**



SECTION 2.45.01 PURPOSE

Domestic abuse, elder or vulnerable adult abuse, and harassment threaten the health, safety and welfare of the Bear River Band of the Rohnerville Rancheria, its families, its members, reservation residents, guests, and visitors. The purpose of this law is to 1) provide the maximum protection from these acts that the law can provide within the Bear River Band of the Rohnerville Rancheria's territory; and 2) offer rehabilitative services to those in the community who have done harm.

SECTION 2.45.02 STATUTORY AUTHORIZATION

The aboriginal and inherent sovereign power of the Bear River Band of the Rohnerville Rancheria is vested with the Bear River Tribal Council. The Constitution of the Bear River Band of the Rohnerville Rancheria authorizes the Bear River Tribal Council to safeguard and promote the peace, safety, morals and general welfare of the members of the Bear River Band by regulating the behavior of all persons within the jurisdiction of the Tribe, and to provide for the enactment and enforcement of the laws of the Tribe.

SECTION 2.45.03 JURISDICTION

The Bear River Band Tribal Court has jurisdiction to issue or enforce an order for protection from harassment, domestic violence, or abuse of elder or vulnerable adult when any of the following is true:

1. The Petitioner or Respondent resides or is found within the territorial jurisdiction of the court as defined in Section 5.0 of the Act Establishing the Judiciary or voluntarily consents to the court's jurisdiction; or
2. The act of Harassment or Domestic Violence occurred within the territorial jurisdiction of the court as defined in Section 5.0 of the Act Establishing the Judiciary; or
3. The Bear River Band Tribal Court is being asked to recognize and enforce a valid order of another court of competent jurisdiction.

The Court's jurisdiction includes the power to enforce subpoenas, orders of contempt, and any other orders as appropriate and to recognize and enforce lawfully issued foreign protection orders.

SECTION 2.45.04 DEFINITIONS

As used in this Section, these terms have the following meanings:

1. *Domestic Violence* includes any of the following committed against a family or household member or intimate partner but does not include acts of self-defense or acts taken to defend a minor child or persons unable to defend themselves by virtue of age or incapacitation:

- a) *Physical Abuse* is any intentional infliction of physical harm on a family or household member or an intimate partner. This includes, but is not limited to: the denial of needed medical care; forcing a family member, household member, or an intimate partner to use alcohol or controlled substances; or improperly restricting or interfering with a family or household member's freedom of movement, e.g. confinement;
 - b) *Psychological and/or Emotional Abuse* can be any intentional use of coercion, threats, harassment, intimidation, humiliation, or confinement of a family or household member or an intimate partner. The abuse can occur through acts, words, or gestures. Examples of psychological or emotional abuse include, but are not limited to: constant criticism; name calling; diminishing one's abilities (e.g. taking away walking aids etc.); threatening physical harm to a family or household member; threatening physical harm to one's self; threatening physical harm to a family or household member's children, family or friends; stalking; destruction of property; harming or threatening to harm pets; forcing isolation from family, friends, pets, school, or work; or stalking. This behavior can occur electronically through social media services or in person.
 - c) *Sexual Abuse* is attempting or causing a family or household member or an intimate partner to engage involuntarily in sexual activity without their legal consent. This includes, but is not limited to: use of force, coercion, threat, intimidation, humiliation, confinement, or when the family member is unable to consent due to the effects of prescription medication or other controlled substances or alcohol.
 - d) *Non-Consensual Pornography* is the non-consensual distribution and publication of images of a family or household member or intimate partner engaged in any sexual activity. This includes the non-consensual publication of the intimate body parts of a family or household member.
 - e) *Economic Abuse* is making or attempting to make an individual financially vulnerable by maintaining control over joint financial resources; maintaining exclusive control over property and vehicles that are jointly owned with a spouse under the law; withholding access to money, and/or misusing/wasting a family or household member's separate financial resources.
2. *Elder or Vulnerable Adult Abuse* is abuse of anyone who is fifty-five (55) years or older, or anyone ages eighteen (18) years old through fifty-four (54) years old who has mental or physical disabilities that prevent the person from carrying out normal activities or from protecting their own rights. When it comes to elders or vulnerable adults, abuse means any of the acts defined as domestic violence though the abuser need not be a family or household member or intimate partner of the abused, or any of the following acts:
- a) Improper or unauthorized use of an elder or vulnerable adult's funds, property (real or personal), or any other resource in a manner not consistent with the elder or vulnerable adult's interests and needs. This includes prescription medication or regalia.
 - b) Neglect of an elder or vulnerable adult. Neglect occurs when any person having the care and custody of an elder or vulnerable adult, whether a family member or paid professional, fails to act with the degree of care necessary to provide for the basic needs and comfort of the elder or vulnerable adult. Neglect includes but is not limited to, any of the following by a caretaker:

- i. Failure to assist in personal hygiene of the elder or vulnerable adult;
 - ii. Failure to provide food, clothing or shelter to the elder or vulnerable adult;
 - iii. Failure to prevent malnutrition or dehydration;
 - iv. Failure to provide medical care, or depriving an elder or vulnerable adult of medical care (this includes stealing medications); or
 - v. Failure to protect from health and safety hazards.
- 3. *Ex Parte* means an action taken by the court without notice to one of the parties.
- 4. *Family or Household Members* means any of the following:
 - a) Persons who are current or former spouses;
 - b) Persons who are current or former Domestic partners;
 - c) Parent, grandparents child, sibling, half sibling, cousin, aunt, uncles nieces or nephew whether related by blood, adoption or marriage;
 - d) Persons who have a child in common;
 - e) Persons who reside together in the same household; or
 - f) Minor children of a person in a relationship that is described in subsections a) through e) of this definition.
- 5. *Full Faith and Credit* requires that one jurisdiction recognize and enforce the protective orders from another jurisdiction. Tribal Protection orders, including any child visitation, child custody or child support terms of those orders are entitled to Full Faith and Credit under the Violence Against Women Act. See 18 USC § 2265(a) & 18 USC § 2266(5).
- 6. *Harassment* means unlawful violence, a credible threat of violence, stalking, or any series of acts over any period of time directed at a specific person that would cause, or has caused, a reasonable person to be seriously alarmed or annoyed and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the Petitioner. Harassment includes theft of another's property, damaging another's property, stalking and "cyber harassment" which is any harassing activity conducted over cell phones, computers, or other electronic communication and includes, but is not limited to, making public false allegations, impersonating the victim, posting the victim's personal information online, and encouraging others to harass the victim. Harassment does not include acts of self-defense or actions taken to defend a minor child or persons unable to defend themselves by virtue of age or incapacitation
- 7. *Indian* means any person who is a member of a Tribe recognized by federal or state government. To the extent allowed by state and federal law, persons may be considered to be Indian under this Section even if not formally enrolled in a Tribe, so long as they are recognized as Indian by a Tribe.
- 8. *Intimate Partner* means any of the following:
 - a) Persons who are current or former spouses;
 - b) Persons who are dating or who have dated;
 - c) Persons who are current or former domestic partners;
 - d) Persons who are engaged in or who have engaged in a sexual relationship; or
 - e) Persons who have a child in common.
- 9. *Issuing Court* means a tribal, state, or federal court that issues an ex parte or Permanent Order of protection against a person.
- 10. *Knowingly* means a person has actual knowledge, or should have known based on the circumstances, that their behavior was prohibited by a protective order. Proof of service of

the restraining order on the person or the person's presence at hearing when the judge verbally informed the parties of the terms of the order is persuasive evidence that a person had knowledge of the terms of a protective order.

11. *Mutual Protection Order* means an order issued by a tribal, state, or federal court which restrains both parties to a proceeding from harassing, annoying, stalking, contacting or coming within a certain proximity to another person.
12. *Parties* is a collective term referring to both the Respondent and/or the Petitioner.
13. *Petitioner* means any person who is requesting a protective order.
14. *Protected Person* means any person who is protected by a protection order. This includes both petitioners and anyone else who is protected by the order.
15. *Protective Order/Protection Order* is an order issued by the court that is designed to protect from domestic violence, harassment, or elder or vulnerable adult abuse; to make victims whole and to refer offenders to rehabilitative services when appropriate. May also be called a "restraining order."
16. *Registration* is the act of either:
 - a) Filing a protection order issued by another court with the Bear River Band Tribal Court or with the Bear River Band Tribal Police; or
 - b) Filing a protection order issued by the Bear River Band Tribal Court with another tribal, state, or federal court or law enforcement agency.
17. *Rehabilitative Services* means services or treatment that are likely to address the underlying issues causing or contributing to the respondent's domestic violence, abusive actions towards elders or vulnerable adults, or harassing behavior. Examples include, but are not limited to: batterer's intervention programs, anger management, substance abuse treatment, mental health counseling, or cultural activities.
18. *Repeatedly* means two or more times.
19. *Respondent* means the person who has allegedly committed acts of domestic violence, elder or vulnerable adult abuse, or harassment.
20. *Stalking* means repeatedly following or harassing another person in circumstances that would cause a reasonable person to fear injury or death because of express or implied threats. This includes "cyberstalking" which is any stalking activity conducted over any electronic communication device such as cell phones, computers, or any social media.
21. *Tribe* means the Bear River Band of the Rohnerville Rancheria unless otherwise stated.
22. *Vulnerable Adult* means anyone who is aged eighteen (18) or older and has a physical or mental impairment that substantially limits one or more major life activities. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
23. *Willful* means that an act was voluntary and intentional, or an act that includes inexcusable carelessness.

SECTION 2.45.05 CRIMINAL PENALTIES

Nothing in this Ordinance prevents a criminal prosecution in this, or any other jurisdiction, for any actions that resulted in the issuance of a protective order or which constituted a violation of a protection order.

SECTION 2.45.06 CIVIL REMEDIES

Nothing in this Ordinance prevents a protected person from pursuing any other civil remedy or damages available to them in this or any other jurisdiction for any actions that resulted in the issuance of a protective order or which constituted a violation of a protection order. The remedies provided in this Ordinance are not exclusive but are additional to remedies provided elsewhere in any code adopted by the Bear River Band Tribal Council. This includes, but is not limited to, exclusion actions or civil citations.

SECTION 2.45.07 CONSTRUCTION

The Court shall construe this article liberally to exercise maximum jurisdiction consistent with applicable Tribal, state, and federal law.

SECTION 2.45.08 CONFLICTING ORDINANCES / RULES OF COURT

The Rules of Court shall apply in protective order cases unless there is a conflict with the provisions of this Ordinance. If there is a conflict between the rules of court or any other Tribal Ordinance and the procedures included here, the procedures in this Ordinance will control in protective order cases.

SECTION 2.45.09 WHO CAN REQUEST AN EMERGENCY PROTECTIVE ORDER

An Emergency Protective Order (EPO) can only be requested by a law enforcement officer.

SECTION 2.45.10 BASIS FOR AN EMERGENCY PROTECTION ORDER

A Tribal judge will grant an emergency protective order when the facts described by the law enforcement officer show that reasonable grounds exist to believe there is an immediate and present danger of any the following, except that allegations of economic abuse alone shall not be the basis for any emergency protection order:

1. Domestic violence, provided the parties to the emergency protective order are family or household members or intimate partners as defined by this Ordinance;
2. Child abuse;
3. Child abduction;
4. Stalking; and
5. Elder or vulnerable adult abuse.

SECTION 2.45.11 EXPIRATION DATE OF EMERGENCY PROTECTIVE ORDER

The emergency protective order will be effective until the close of business on the fifth court working day after issuance or for seven (7) calendar days after the date and time of issuance, whichever occurs first.

SECTION 2.45.12 RELIEF AVAILABLE IN EMERGENCY PROTECTIVE ORDER

The following relief is available in an emergency order for protection:

1. The Respondent may be prohibited from harassing, attacking, striking, threatening, assaulting, hitting, following, stalking, molesting, destroying the personal property or, disturbing the peace of, keeping under surveillance, or blocking the movements of any protected person named in the order;
2. The Respondent may be prohibited from contacting any protected person either directly or indirectly, by any means, including but not limited to, by telephone, mail, e-mail, or other electronic means;
3. The Respondent may be prohibited from taking any action, directly or through others, to obtain the address or location of any protected persons named in the order;
4. The Respondent may be ordered to remain a stated distance away from any protected person named in the order;
5. The Respondent may be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive any firearms or ammunition;
6. The Respondent may be required to turn any firearms into a law enforcement agency, or sell them to, or store them with, a licensed gun dealer;
7. The Respondent may be ordered to move out of the home of any protected person; and
8. The order may grant a protected person the temporary custody of any child of the protected person and the Respondent with or without allowing visitation between the Respondent and the child(ren).

SECTION 2.45.13 WHO CAN PETITION FOR A CIVIL PROTECTIVE ORDER

A petition to obtain an order of protection under this article may be filed with the Clerk of the Bear River Band Tribal Court by:

1. Any person claiming to be the victim of Domestic Violence, Elder or Vulnerable Adult Abuse, or Harassment;
2. Any family or household member of a minor child who needs protection and is in the requesting party's care; or
3. Any family or household member of an adult who needs protection and either consents to be represented or is found to be lacking in the immediate capacity to consent based upon the declaration of the requesting party.

If the Petitioner requests protection for other persons over eighteen (18) years of age who have capacity, each such person must sign the petition confirming that they are joining in the request or a declaration must be provided stating why such persons are not signing.

SECTION 2.45.14 FORMS

The Tribal Court shall create and make available forms for requesting and responding to protection orders.

SECTION 2.45.15 NO FEES

There is no filing fee for protective order cases, and Tribal Law Enforcement shall not charge for serving protective order case documents.

SECTION 2.45.16 PETITIONER'S REQUEST THAT ADDRESS REMAIN CONFIDENTIAL

The Petitioner may request that his/her current physical address and phone number remain confidential. If the Petitioner's request is granted:

1. The Petitioner must complete a confidential contact form and provide it to the Court Clerk. The form will only be available to court staff;
2. Any documents filed with the court shall list the Petitioner's address and phone number as "confidential";
3. The Court Clerk or Tribal Law Enforcement shall be responsible for serving the Petitioner with any documents filed by the Respondent; and
4. The Petitioner's contact information shall not be released by the court unless the Petitioner consents in writing to the release of information.

SECTION 2.45.17 TEMPORARY PROTECTIVE ORDERS

The Court may issue a temporary protective order on an ex parte basis before the Respondent is served with the petition or has had a chance to respond to the allegations in the petition. The Temporary Order is not enforceable against the Respondent until the Respondent has been served with a copy of the order.

1. Burden of Proof for Temporary Order
 - a) Domestic Violence Cases:

A temporary ex parte order will issue if the factual allegations in the petition and any supporting evidence show reasonable proof of past domestic violence. Allegations of economic abuse alone are not a basis for a temporary domestic violence protective order.
 - b) Elder or Vulnerable Adult Cases:

A temporary ex parte order will issue if the factual allegations in the petition and any supporting evidence show reasonable proof of past elder or vulnerable adult abuse. The court may issue a temporary protective order based solely on allegations of economic abuse if the Petitioner shows that the elder or vulnerable adult will suffer great or irreparable harm if the temporary order is not granted.
 - c) Harassment Cases:

In cases alleging harassment, the petition and any supporting evidence must show reasonable proof of past harassment, and that great or irreparable harm will result to the Petitioner or other persons for whom protection is sought if the temporary order is not granted.
2. Reasons to Not Include All Requested Protected Persons in Temporary Order
 - a) If the facts alleged in the petition do not show the reasonable proof required above in Section 1. of 2.45.17 for each of the persons seeking protection, the judge may issue a temporary order in which only some of the persons seeking protection are listed as protected persons. A person seeking protection, who is not included in the temporary order, may still be included as a protected person in an order after hearing if they prove at hearing that they need protection from the Respondent.

- b) In domestic violence cases, minor children of a Petitioner may be included as protected persons, if requested, if it is alleged that the other parent was the perpetrator of the domestic violence.
3. Expiration Date of Temporary Protective Order
- Unless otherwise stated in the order, any temporary restraining order is valid against the Respondent from the time it is served on the Respondent until the end of the hearing scheduled on the petition.

SECTION 2.45.18 RELIEF AVAILABLE IN TEMPORARY PROTECTIVE ORDERS

1. Relief Available in all Temporary Ex Parte Orders for Protection
- The following relief is available in any Temporary Orders for Protection. A Temporary Order for Protection is also called a Temporary Restraining Order:
- a) The Respondent may be prohibited from harassing, attacking, striking, threatening, assaulting, hitting, following, stalking, molesting, destroying the personal property or, disturbing the peace of, keeping under surveillance, or blocking the movements of any protected person named in the order;
 - b) The Respondent may be prohibited from contacting any protected person either directly or indirectly, by any means, including but not limited to, by telephone, mail, e-mail, or other electronic means;
 - c) The Respondent may be prohibited from taking any action, directly or through others, to obtain the address or location of any protected persons named in the order;
 - d) The Respondent may be ordered to remain a stated distance away from any protected person named in the order;
 - e) The Respondent may be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive any firearms or ammunition;
 - f) The Respondent may be required to turn any firearms into a law enforcement agency, or sell them to, or store them with, a licensed gun dealer;
 - g) A protected person may be given the exclusive care, custody and control of animals named or described in the order; and/or
 - h) Any other temporary relief the Court deems necessary to protect and provide for the safety of any protected persons named in the order.
2. Relief Available in Temporary Protective Orders Issued Because of Allegations of Domestic Violence
- In addition to the relief listed above in Section 1. of 2.45.18, the following temporary relief is available in temporary domestic violence restraining orders:
- a) The Respondent may be ordered to move out of the home of any protected person;
 - b) The protected person may be granted the right to record any communications from the Respondent which violate the order;
 - c) The order may grant a protected person the temporary custody of any child of the protected person and the Respondent with or without allowing visitation between the Respondent and the child(ren);
 - d) A protected person may be granted exclusive use, control, and possession of property described in the order;
 - e) The Respondent may be ordered to pay debts specified in the order;

- f) The Respondent may be ordered to maintain, and refrain from removing funds beyond a certain limit from, the parties' bank account and other joint asset
 - g) If the parties are married, the Respondent may be prohibited from transferring, borrowing against, selling, hiding, getting rid of or destroying any property, including animals, except in the court of business or for necessities of life and, unless a no contact order is in place, each person may be required to notify the other of any new or big expenses and explain them to the court;
 - h) The court may prohibit any person from cashing, borrowing against, cancelling, transferring, disposing of, or changing the beneficiaries of any insurance or coverage held for the benefit of the parties or their child(ren) and/or;
 - i) Any other temporary relief the Court deems necessary to protect and provide for the safety of any protected persons named in the order.
3. Relief Available in Cases of Elder or Vulnerable Adult Abuse:
 In addition to the relief listed above in Section 1. of 2.45.18, the following temporary relief is available in temporary elder or vulnerable adult protection orders:
- a) The Respondent may be ordered to move out of the home of a protected elder or vulnerable adult;
 - b) The Respondent may be ordered to return all debit card, credit card, or blank checks of the elder or vulnerable adult;
 - c) The Respondent may be prohibited from accessing any of the elder or vulnerable adult's financial accounts;
 - d) The Respondent may be required to return any medication issued in the elder or protected person's name that is in the Respondent's possession;
 - e) The Respondent may be prohibited from picking up any prescriptions issued to the elder or vulnerable adult;
 - f) The Respondent may be ordered to return any property of the elder or vulnerable adult's in the Respondent's possession; and
 - g) The Respondent may be prohibited from transferring, borrowing against, selling, hiding, getting rid of or destroying any property, including animals that belong to the elder or vulnerable adult.

SECTION 2.45.19 RESPONSE TO A PROTECTIVE ORDER PETITION

A Respondent who has been served with the documents filed in the case and been given notice of the hearing date and time, shall file a written response prior to the hearing. If the Respondent believes good cause exists to allow additional time for the response, the Respondent shall request a continuance.

SECTION 2.45.20 HEARING

1. Timing of Hearing
 A hearing to determine whether a Permanent Order for protection should be issued shall be held within twenty-one (21) days of the date of the filing of the petition at the next calendared court date unless the next court date is within ten (10) days of filing the petition.
2. Purpose of Hearing

At the hearing, the Judge shall receive any testimony that is relevant, and may make an independent inquiry.

3. Burden of Proof

a) Domestic Violence

The Petitioner must prove that it is more likely than not that the alleged domestic violence occurred. Allegations of economic abuse alone are not a basis for a domestic violence restraining order.

b) Elder or Vulnerable Adult Abuse

The Petitioner must prove that it is more likely than not that the alleged elder or vulnerable abuse occurred.

c) Civil Harassment

The Petitioner must prove the harassment occurred by clear and convincing evidence.

4. Remedy if Party Using Cross Examination to Intimidate or Harass

The court may limit or end the cross examination of any witness or party if the judge makes a finding on the record that the questions are being used to harass or intimidate the witness or the other party.

SECTION 2.45.21 CONTINUANCE

1. Basis for Continuance

The court will only continue the hearing on the petition if good cause exists to do so. Examples of good cause for a continuance may include, but are not limited to any of the following:

- a) The Petitioner has been unable to serve the Respondent despite good faith efforts to do so;
- b) The Respondent was served less than five days prior to the hearing and has not had time to adequately prepare a response;
- c) A key witness or relevant documents are not available at the time of the hearing due to no fault of the party wishing to present the evidence; or
- d) A party has requested a reasonable amount of time to retain representation.

2. Effect of Continuance on Temporary Orders

During the time of any continuance, any temporary order will remain in effect unless there is good cause for modification.

SECTION 2.45.22 REMOTE APPEARANCE

The court may allow a party or witness to appear through video conferencing if the Petitioner or other protected person has concerns about their safety during hearing or when other good cause for a remote appearance exists.

SECTION 2.45.23 FAILURE TO APPEAR AT HEARING

1. Petitioner

If the Petitioner does not come to the hearing, the case may be dismissed. The Petitioner's failure to follow through with a domestic violence protective order is not a sufficient basis for a judge to deny future domestic violence protective order requests from the Petitioner.

2. Respondent

If the Respondent does not come to the hearing, the court will decide whether to issue a restraining order based solely on the case filings and any evidence presented by the Petitioner at hearing.

SECTION 2.45.24 RELIEF AVAILABLE AFTER NOTICED HEARING

1. Relief Available in all Protection Orders issued after a Noticed Hearing.

2. In addition to relief available ex parte, the Court may grant the following relief in an Order for protection issued after a noticed hearing, whether or not the Respondent appears:

- a) Order the Respondent to reimburse the Petitioner or other persons for any expenses associated with the domestic violence, elder or vulnerable adult abuse, or harassment including but not limited to medical expenses, counseling, shelter, loss of earnings or support, and repair or replacement of destroyed or damaged property;
- b) Order the Respondent to return property taken from a protected person within a specific amount of time, or pay the protected the person the replacement cost or the actual value of the property, whichever is greater;
- c) Order the Respondent to repay a protected person for money taken without the protected person's knowledge, or through fraud, coercion or elder or vulnerable person abuse;
- d) Award costs and legal fees incurred in bringing the action;
- e) Order the Respondent to complete an assessment for rehabilitative services and complete any recommended services;
- f) Require the Respondent to pay for credit repair or credit monitoring costs for a protected person where the restrained person's actions have damaged the protected person's credit or put the protected person at risk for identity theft;
- g) Order the Respondent to not attend specific community activities that a protected person is participating in or attending as part of the stay away order; and/or
- h) Any other relief the Court deems necessary to protect and provide for the safety of any protected persons named in the order.

3. Relief Available in Domestic Violence Protection Orders

In addition to the relief available above in Section 1. of 2.45.24, the Court may also order any of the following relief:

- a) Specify arrangements for visitation of any minor child by Respondent and require supervision of that visitation by an invulnerable third party or deny visitation if necessary to protect the safety of the Petitioner or child;
- b) Order the Respondent to make payments for the support of the Petitioner or any minor child if the Respondent is found to have a duty to provide such support;

- c) Require a party responsible for Domestic Violence to provide a spouse and his or her children suitable alternate housing. This order must be written in a way to protect the whereabouts of the Petitioner if requested by the Petitioner.
4. Relief Available in an Elder or Vulnerable Adult Abuse Protective Order After Hearing
In addition to the relief available in above in Section 1. of 2.45.24, the Court may also order any of the relief listed in Section 2.45.18, subsection 3.

SECTION 2.45.25 CONTENTS OF PROTECTION ORDER

Any protection order, temporary or permanent, issued by the Court shall include the following information, if available. The inability to provide all categories of information shall not render the order unenforceable.

1. The name, race, Tribal status, date of birth, and other personal descriptive information of the Respondent.
2. The names and dates of birth of the protected persons.
3. The date of issuance of the order.
4. The duration or expiration date of the order.
5. The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions.
6. The name and address of the Bear River Band Tribal Court.
7. Whether or not the Respondent was present in Court when the order was issued.
8. The terms and conditions of any restrictions on the ownership or possession of firearms.

SECTION 2.45.26 VERBAL NOTICE TO THE PARTIES OF THE TERMS OF THE ORDER

If both parties are present in court, the court must inform both the Petitioner and the Respondent of the following:

1. The terms of the order;
2. The possible penalties the Respondent faces for violating the order; and
3. Any review hearing dates, if applicable.

SECTION 2.45.27 EXPIRATION DATE OF PROTECTION ORDER ISSUED AFTER HEARING

Protection orders issued after hearing remain in effect for up to five (5) years. Any order for child custody or visitation, child support, or division of property in a domestic violence protection order shall survive the termination of any protective order and be governed by the tribal law related to those specific subjects.

SECTION 2.45.28 REVIEW HEARINGS

A review hearing shall be mandatory any time a protective order is issued that requires the Respondent to complete any rehabilitative services, pay any restitution to the victim, or surrender or sell any firearms and ammunition. The court must provide the parties with notice of date and time of the review hearing at least ten (10) days prior to the hearing unless the Court finds good cause to shorten the time, and the notice of hearing must include a description of any documents

or other proof of compliance that the Respondent must provide to the court. The Petitioner is not required to appear at review hearings on the Respondent's compliance but may appear if they so choose.

SECTION 2.45.29 MODIFICATION OR DISMISSAL OF PROTECTIVE ORDERS

1. Burden of Proof for Modification

The burden is on the party requesting the modification to prove by a preponderance of the evidence that the modification should be granted. The moving party must show that a change in circumstance has occurred since the issuance of the order that justifies the requested change to the order. The safety of the Petitioner(s) and other protected persons must be the primary consideration in the court's analysis when the Respondent requests a modification or dismissal of a restraining order.

2. No Modification Without a Court Order

Protective orders are not automatically canceled or modified due to the actions of a protected person. If a protected person is behaving in a way that restrained person believes shows that one or more terms of the order are not necessary or ought to be changed, the restrained person must file a motion to modify the protective order and continue to comply with all terms of the protective order until the court modifies the order. If a protected person wishes to have more contact with the restrained person, or otherwise change terms of an order, the protected person must file a motion to modify. Examples of actions that may be a basis for a motion to modify, but do not change the terms of a protective order unless the court modifies the order after a noticed hearing include, but are not limited to, the following:

- a) A protected person voluntarily and repeatedly inviting the Respondent to the home that the Respondent was ordered to move out of;
- b) A protected person voluntarily and repeatedly spending time with a Respondent who is ordered to stay away from the Petitioner or protected person;
- c) A protected person voluntarily and repeatedly initiating communication with a Respondent who has a no contact order; and/or
- d) A protected person enforcing the order intermittently as retaliation for the restrained person not doing what the protected person says.

3. Ex Parte Modifications of Protection Orders

a) Basis for Ex Parte Modification

The Court may modify a protective order without prior notice to the Respondent if there is probable cause to believe that the Petitioner is in danger of violence or some other great or irreparable physical, emotional, or financial harm occurring prior to a noticed hearing on a Motion for Modification.

b) Waiver of Requirement to Inform the Respondent of the Ex Parte Request

The requirement to either inform, or make a good faith attempt to inform, the Respondent of the ex parte request may be waived by the court if probable cause exists to show that the Respondent has violated a prior or existing order of protection by engaging in new acts of violence, harassment, threatening behavior, or elder or vulnerable adult abuse.

c) Requirement of Noticed Hearing

Where an order is modified ex parte, a noticed hearing must be set within twenty-one (21) days of the filing of the modification petition. The hearing date and time must be included in the Modified Protective Order.

SECTION 2.45.30 MODIFICATION OF CHILD CUSTODY, VISITATION, OR SUPPORT ORDERS

Modifications of child custody or visitation shall be handled according to the Tribe's laws regarding child custody. Modifications of child support shall be handled according to the Tribe's child support laws.

SECTION 2.45.31 RENEWAL OF PROTECTIVE ORDER

The protected party may request an extension of a protective order after hearing. The request must be filed at least seven (7) days before the expiration of the order that the Petitioner is seeking to extend. The court will grant one extension of one (1) year for protective orders without the Petitioner showing additional domestic violence, elder or vulnerable adult abuse, stalking, or harassment. Additional extensions will only be granted if the court finds that protective orders are needed to keep the Petitioner and other protected persons safe from domestic violence, elder or vulnerable adult abuse, stalking or harassment.

SECTION 2.45.32 MUTUAL ORDERS

Mutual Protective Orders are disfavored and shall only be issued if all of the following are true:

1. Both parties have filed a written request for a restraining order against the other and
2. After a noticed hearing the court makes the following detailed findings:
 - a) Both parties acted as aggressors;
 - b) Neither party acted primarily in self-defense; and/or
 - c) Each party was provided with due process.

SECTION 2.45.33 CIVIL CONTEMPT

Any person who willfully and knowingly violates a Bear River Band Protective Order shall be held in contempt of court. The Court may act on its own initiative if the violation of the order occurs in the presence of the judge or court staff, or any protected person may file a motion to hold the violator in contempt. If, after a noticed hearing, the Court finds by a preponderance of the evidence that the violation occurred, and that it was willful and knowing, the Court may order any of the following consequences for the violation:

1. A fine not exceeding \$5,000.00, payable to the Court;
2. Community service of up to 120 hours;
3. Referral to an assessment for rehabilitative services and an Order to complete any recommended services;
4. Any of the remedies available in an order After Notice Hearing listed in Section 2.45.24;
5. In the case of persons who are not members of the Bear River Band of the Rohnerville Rancheria, exclusion from the Rancheria for any period of time designated by the Court;
6. In the case of persons who are Bear River Band Tribal Members, exclusion from the Rancheria may be referred to the Bear River Tribal Council; and
7. Reasonable attorney's fees and cost incurred to prove the Contempt of Court.

SECTION 2.45.34 SUPERVISION

While enrolled in rehabilitative services, the person enrolled and/or the family or involved parties may be supervised in the manner ordered by the Court.

SECTION 2.45.35 EXCLUSION

Upon violating a Protection Order or committing an act of domestic violence or harassment, proceedings for removal and exclusion of a Tribal member perpetrator from the Bear River Band Rancheria may be initiated by the Tribal Council. The Court may order the exclusion of any non-Tribal member found to have either committed an act of domestic violence or harassment or to have violated a Protection Order.

SECTION 2.45.36 VOLUNTARILY SEEKING TREATMENT

Any party may voluntarily seek evaluation and treatment. The Court may take into consideration a party's voluntary participation in evaluation and treatment in deciding what relief in any proceedings resulting from the violation of a protection order.

SECTION 2.45.37 NOTICE TO LAW ENFORCEMENT OF PROTECTIVE ORDERS

The Bear River Band of the Rohnerville Rancheria recognizes that law enforcement must know that a protective order exists and has been served before it will be enforced. To ensure the proper and timely enforcement of tribal court protection orders, including any foreign orders that have been recognized by the court, the court shall do the following:

1. Provide a copy of every protective order to all parties to the case.
2. Provide for a registry of all orders for protection issued by or registered with the court.
3. Provide copies of all protection orders and completed proof of service forms for those orders to the Bear River Band Police Department.
4. Provide copies of all protection orders and completed proof of service forms for those orders to the Humboldt County Sheriff's Department, if a process can be worked out to do so.
5. Enter protective orders and proofs of service into any local, state, or national registries or databases that the court has access to which law enforcement utilizes to check for the existence of protective orders. This may include registering Tribal Court Orders with a California Superior Court for entry into state databases.
6. If the Court issues a modification, extension, or termination of a protective order, all law enforcement agencies and registries or databases which were provided with the original order shall be notified of the terms of the modification, extension, or termination.

SECTION 2.45.38 LAW ENFORCEMENT RESPONSE

The Tribal Police Department shall respond to the request for assistance in Domestic Violence, Harassment, or Elder or Vulnerable Adult Abuse as a high priority matter.

1. The Police Officer responding to the request for assistance shall take whatever steps are reasonably necessary to protect the victim and other household or family members from harm, including without limitation:

- a) Advise the victim and other household or family members of sources of shelter, medical care, counseling and other services;
- b) Transport the victim and other household or family members to appropriate facilities such as hospitals, the Court, or public or private facilities for emergency shelter;
- c) Upon request, accompany the victim and other household or family members to their residence(s), so that they may remove food, clothing, medication and such other personal property as is reasonably necessary to enable them to remain elsewhere pending further proceedings;
- d) Confiscate any weapon involved in the alleged domestic violence;
- e) Give the victim and other household or family members adequate notice of rights, remedies and services available;
- f) Arrest the alleged perpetrator as may be required by any applicable law;
- g) Enforce all valid protective orders without further order of the Court;
- h) Give Full Faith and Credit to valid protection orders entered by the courts of any state or Indian Tribe and enforce those orders without further order of the Court; and
- i) Seek an emergency protective order.

SECTION 2.45.39 LIABILITY LIMITATIONS FOR LAW ENFORCEMENT

No Officer may be held criminally or civilly liable on account of reasonable measures taken in providing assistance pursuant to this Ordinance.

SECTION 2.45.40 ENFORCEMENT OF FOREIGN ORDERS

1. Full Faith and Credit Requirements

The Bear River Band Tribal Court shall enforce a protection order from another jurisdiction, and all provisions of that protection order, including child custody and property awards, if all the following are satisfied:

- a) The Respondent received notice of the order in compliance with the requirements of the issuing jurisdiction;
- b) The order remains in effect in the issuing jurisdiction;
- c) The issuing court had jurisdiction over the parties and subject matter; and
- d) The Respondent was afforded reasonable notice and the opportunity to be heard prior to the issuance of a permanent protection order or in the case of an ex parte order it appears from the face of the order that a hearing will be conducted within reasonable time to allow the Respondent to raise any defenses he or she may have to the issuance of a permanent protection order.

2. Procedure for Registering a Foreign Protection Order with the Tribal Court

Any person who has received a protection order from another Tribal, state, or federal court may file it with the Clerk of the Bear River Band Tribal Court and request that the Court grant it full faith and credit free of charge. Upon the filing of that protection order with the Court, a Tribal Judge shall review the foreign order and, if it appears from the face of the order it meets the requirements for recognition, shall enter an order recognizing the protection order. Upon recognition, the Court shall immediately forward the order to Tribal Law Enforcement.

3. Violation of Foreign Protection Order

- a) Persons who violate a foreign protection order issued by any Tribal, state or federal court within the jurisdiction of the Bear River Band of the Rohnerville Rancheria are subject to the same civil and criminal penalties otherwise imposed for violations of protection orders under this Section.
- b) A person protected by a protection order issued by another court need not file that order with the Bear River Band Tribal Court in order to receive law enforcement protection.
- c) It is not a defense that a protected person had not registered the protection order with the Bear River Band Tribal Court prior to the violation.

SECTION 2.45.41 EFFECTIVE DATE

The Ordinance will become effective upon adoption by the Tribal Council.

SECTION 2.45.42 AMENDMENTS

The Tribal Council of Bear River Band of the Rohnerville Rancheria has the authority to make amendments to this Ordinance.

SECTION 2.45.43 SOVEREIGN IMMUNITY

Nothing in this Ordinance shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe. The sovereign immunity of the Tribe shall extend to its Tribal Law Enforcement Officer(s) at all times while carrying out the enforcement of this Ordinance.

SECTION 2.45.44 SEVERABILITY

If any provision of this Ordinance, or its application to any person or circumstance is held invalid, the remainder of the Ordinance, or its application of the provision to other persons or circumstances shall not be affected.

THIS SECTION INTENTIONALLY LEFT BLANK

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This is to certify that the Bear River Band of the Rohnerville Rancheria Tribal Council duly assembled in Loleta, CA and adopted the foregoing document on November 29, 2022 by a vote

5 For, 0 Against, 0 Abstentions and 2 Absent.

Josefina Frank, Chairperson



Aileen Meyer, Vice Chairperson



Dakota McGinnis, Secretary



Earl Moon, Treasurer



John D. McGinnis, Member-at-Large 1

Edward Bowie, Member-at-Large 2



Darrell Sherman, Member-at-Large 3