



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 16- 03

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965;

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe;

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government;

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe;

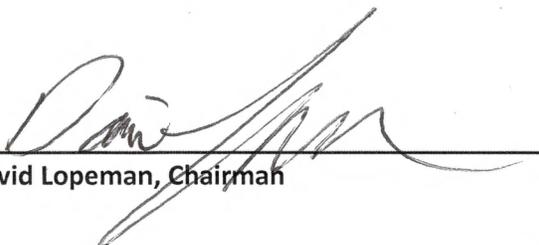
WHEREAS, the Squaxin Island Tribal Council finds that protection of the Tribe's employees and community members is essential to the health and welfare of the Squaxin Island Tribe and its members.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby adopts the following amendment to Title 9, Law and Order Code. Article XXX. Domestic, Community, and Workplace Violence Prevention (see attached red-line version) and a new section in Title 9 Harassment of Public Officers and Employee (see attached).

NOW THEREFORE BE IT FINALLY RESOLVED, the Squaxin Island Tribal Council hereby adopts the attached amended and new section to Title 9, Law and Order Code.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 14th day of January, 2016, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.



David Lopeman, Chairman

Attested by: 

Charlene Krise, Secretary



Arnold Cooper, Vice Chairman

New Section

9.12.xxx Harassment of public officers and employees.

Any person who:

- A. willfully prevents or attempts to prevent any public officer or employee from performing the officer's or employee's duty; or
- B. by words or conduct willfully threatens physical harm or intimidates a public officer or employee; or
- C. by words or conduct willfully threatens unwanted sexual advances to a public officer or employee;

commits a misdemeanor. A public employee includes any employee of the Squaxin Island Tribe government.

Article XXX. — Domestic, Community, and Workplace -Violence Prevention

9.12.1035 - Definitions.

For the purpose of ~~the following domestic violence prevention~~ sections:

A. "Domestic violence" means:

1. Physical harm, bodily injury, assault, physical intimidation, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or
2. Sexual assault of one family or household member by another.

B. "Family or household members" means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together, or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

C. "Community violence" means:

1. Physical harm, bodily injury, assault, physical intimidation, or the infliction of fear of imminent physical harm, bodily injury or assault, between community members; or
2. Sexual assault of one community member by another.

D. "Community member" means a resident of the Squaxin Island Reservation, or a person who enters the Squaxin Island Reservation for employment, education, or health or other services.

E. "Workplace violence" means:

1. Physical harm, bodily injury, assault, physical intimidation, or the infliction of fear of imminent physical harm, bodily injury or assault, occurring in the workplace.
2. Sexual assault occurring in the workplace.

F. "Workplace" means any location where employees of the Squaxin Island Tribe are operating within the scope of their employment.

G. "Judicial day" does not include Saturdays, Sundays, or legal holidays.
(Res. 02-129 (part))

9.12.1040 - Commencement of action—Jurisdiction—Venue.

Any person may seek relief under this chapter by filing a petition with the Tribal Court alleging that the person has been the victim of domestic, community, or workplace violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of a minor family or household member.

(Res. 02-129 (part))

9.12.1045 - Petition for an order for protection—Availability of forms and instructional brochures—Filing fee, when required—Bond not required.

There shall exist an action known as a petition for an order for protection in cases of domestic, community, and workplace violence.

A. A petition for an order for protection shall allege the existence of domestic, community, or workplace violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

B. A petition for an order for protection may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

C. All court clerk's offices shall make available simplified forms and instructional brochures.

Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(Res. 02-129 (part))

9.12.1050 - Hearing—Service—Time.

Upon receipt of the petition, the Court shall order a hearing, which will be held not later than twenty (20) days from the date of the order. Personal service shall be made upon the respondent not less than seven court days prior to the hearing. If timely service cannot be made, the Court may set a new hearing date.

(Res. 02-129 (part))

9.12.1055 - Relief—Realignment of designation of parties.

A. Upon notice and after hearing, the Court may provide relief as follows:

1. Restrain a party from committing acts of domestic, community, or workplace violence;
2. Exclude the respondent from: (1) the dwelling which parties share or from the residence of the petitioner or (2) the workplace of the petitioner;
3. Order the respondent to participate in treatment or counseling services;
4. Order other relief as it deems necessary for the protection of a family or household member, community member, or worker, including orders or directives to a peace officer;
5. Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in a forma pauperis, the Court may require the respondent to pay the filing fee and costs, including service fees, to the entity incurring the expense;

B. The Court shall make residential provision with regard to minor children of the parties, if any.

C. Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

D. In providing relief under this section the Court may realign the designation of the parties as "petitioner" and "respondent" where the Court finds that the original petitioner is the abuser and the original respondent is the victim of domestic, workplace, or community violence.

(Res. 02-129 (part))

9.12.1060 - Ex parte temporary order for protection.

A. Where an applicant under this section alleges that irreparable injury could result from domestic, community, or workplace -violence if an order is not issued immediately without prior notice to the respondent, the Court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the Court deems proper, including an order:

1. Restraining any party from committing acts of domestic, community, or workplace violence;

2. Excluding any party from the dwelling shared or from the residence or workplace of the other until further order of the Court; and
3. Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the Court.

B. Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic, community, or workplace violence against the petitioner.

C. The Court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

D. An ex parte temporary order for protection shall be effective for a fixed period not to exceed thirty (30) days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than thirty (30) days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. (Res. 02-129 (part))

9.12.1065 - Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency.

When an order is issued under this chapter upon request of the petitioner, the Court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order of protection. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order. (Res. 02-129 (part))

9.12.1070 - Order—Service—Fees.

A. An order issued under these domestic, community, or workplace violence prevention sections shall be personally served upon the respondent, except as provided in subsection F of this section.

B. The chief of police or his or her designee shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

C. If service by a peace officer is to be used, the clerk of the Court shall have a copy of any order issued under these ~~domestic~~ violence prevention sections forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under these ~~domestic~~ violence prevention sections shall take precedence over the service of other documents unless they are of a similar emergency nature.

D. If the peace officer cannot complete service upon the respondent within ten (10) days, the peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

E. Returns of service under these domestic, community, or workplace violence prevention sections shall be made in accordance with the applicable Court rules.

F. If an order entered by the Court recites that the respondent appeared in person before the Court, the necessity for further service is waived and proof of service is waived and proof of service of that order is not necessary. (Res. 07-31 § 52; Res. 02-129 (part))

9.12.1075 - Order—Transmittal to law enforcement agency—Record in law enforcement information system enforceability.

A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the Court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in Washington State used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. (Res. 02-129 (part))

9.12.1080 - Violation of order.

A. Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence or workplace is a misdemeanor.

B. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order for protection issued under this chapter that restrains the person or excludes the person from a residence or workplace, if the person restrained knows of the order.

C. A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

D. Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent had violated an order for protection granted under this chapter, the Court may issue an order to the respondent, requiring the respondent to appear and show cause within twenty (20) days why the respondent should not be found in contempt of court and punished accordingly.
(Res. 02-129 (part))

9.12.1085 - Peace officers—Immunity.

No peace officer may be held criminally or civilly liable for making an arrest under this chapter if the police officer acts in good faith and without malice. (Res. 02-129 (part))

9.12.1090 - Title to real estate—Effect.

Nothing in this chapter may affect the title to real estate; provided, that a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate. (Res. 02-129 (part))

9.12.1095 - Proceedings additional.

Any proceedings under this act are in addition to other civil or criminal remedies. (Res. 02-129 (part))

9.12.1100 - Police arrest authority.

A. Felonies. Officers shall arrest, without benefit of a warrant, based on probable cause for assaults and threats involving physical action in ~~domestic~~ cases under this section and having occurred within four hours.

B. Misdemeanors. Officers shall arrest, without benefit of a warrant, based on probable cause for assaults and threats involving physical action in ~~domestic~~ cases under this section and having occurred within four hours.

C. Court Orders. Officers shall arrest, without benefit of a warrant, based on probable cause that a court order under this section has been violated, ~~in a domestic incident.~~

D. Warrants. If, when officers arrive on the scene the offender has left the area or four hours have elapsed, and probable cause exists that a domestic, community, or workplace violence crime has been committed, the officer will obtain an arrest warrant. (Res. 02-129 (part))