

Public Law 280 – Family Violence Case scenarios

Party files a Request for a Protective Order under California Family Code section 6200. The request includes a request for a move out order. At the hearing, the judge learns that the parties live on the reservation. None of the materials filed with the court disclose the tribal status of the parties. Although not disclosed on the DV-100, at the hearing the court learns that there is a divorce and child custody matter already pending between the parties in the local tribal court, but no orders have yet been issued. How should the state court proceed?

1. Can the state court make a move out order that is effective for a residence on the reservation?
2. Under the protective order provisions of the Family Code can the court make an order that regulates the movements of a tribal member on the reservation?
3. Must / should the court determine if there is an existing protective order from the tribal court? Why?
4. If there is an existing protective order from the tribal court, but the state court was not able to find any record of it within the state court system, what if any steps can or should be taken?