

TITLE 10. SKY TRIBE CRIMINAL CODE
CHAPTER 20. VIOLATION OF A PROTECTION ORDER AGAINST DOMESTIC VIOLENCE

10 – 20 – 04. Protective Orders Against Domestic Violence. Violation of a protective order against domestic violence known to the defendant shall be a criminal offense.

10 – 20 – 05. Mandatory Arrest for Violations of Orders for Protection Against Domestic Violence. A police officer shall arrest, without a warrant and take into custody a person whom the police officer has probable cause to believe has violated a protection order against domestic violence, if the existence of the order can be verified by the officer. If probable cause has been established and an arrest is not made within a twenty-four (24) hour period, the police officer shall file a request with the Sky Tribal Court of an affidavit for a warrant to apprehend.

10 – 20 – 08. Use of Force. A person is justified in the use of force or threat to use force against another when and the extent the person reasonable believes that such conduct is necessary to protect the person against the other's use or attempted imminent use of unlawful force.

10 – 20 – 09. Self-Defense. Self-defense is not available to a person who knowingly or purposely provoked the other's use or attempted use of unlawful force, unless:

- (A) such force is so great that the person reasonable believes there is imminent danger of death or serious bodily harm;
- (B) the person abandons the encounter, or clearly communicates to the other his or her intent to do so reasonably believing he or she cannot safely abandon the encounter; and
- (C) the other nevertheless continues or attempts to use unlawful force against the person.

10 – 20 – 10. Predominate Aggressor. In the event a defendant claims self-defense in a domestic violence hearing, the judge will take judicial notice of all factors in the case, including determinants for predominate aggressor. Factors include any pertinent information and/or expert testimony of domestic violence advocates pertaining to domestic violence or any other factors relating to the self-defense characteristics displayed in domestic violence cases. The defendant must provide sufficient evidence to prove beyond a reasonable doubt that he or she acted in self-defense.

10 – 20 – 11. Alcohol Not a Mitigating Factor. The use of alcohol in the committing of domestic violence or any crime related to domestic violence shall not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence. The fact that the perpetrator was under the influence at the time of the offense shall not be utilized by law enforcement prosecution or the court to mitigate the severity of the violence.

10 – 20 – 14. Victim's Impact Statement. The victim may provide to the Sky Tribal Court a written or oral impact statement at the time of sentencing.

10 – 20 – 15. Penalties for Violation of a Protection Order Against Domestic Violence. Violation of a protection order against domestic violence known to the defendant shall carry a maximum penalty of one (1) year in jail or imposition of a fine not to exceed four thousand dollars (\$4,000.00), or both.