

TRIBAL PUBLIC SAFETY ORDINANCE NO. 2009-01

TITLE I

FINDINGS; DECLARATIONS OF POLICY

101. Tribal Council Findings. The Bishop Tribal Council (the "Tribal Council") is the federally recognized governing body for the Bishop Paiute Tribe (Tribe). After careful review, which has included input from the Tribal community, the Tribal Council has determined that there is an existing threat to the public safety and welfare of the tribal community since there is no Tribal judicial remedy available to enforce State or other Tribal protective orders. In addition, the Tribe does not have in place, judicial remedies to protect the Tribal community and or prevent violent or threatening acts, harassment, or sexual violence against Tribal community members.

It is the finding of the Tribal Council that there needs to be in place a judicial procedure by which the Tribal Court may issue appropriate protective orders in order to address/prevent violent or threatening acts, harassment, or sexual violence.

102. Declarations of Policy. It is the policy of this Public Safety Ordinance to promote the general health, safety, and welfare of all residents of the Bishop Paiute Reservation by authorizing through this ordinance the Bishop Tribal Court to issue protective orders for the purpose of preventing violent or threatening acts, harassment, or sexual violence.

It is also the policy of this Public Safety Ordinance to provide for the full faith and credit of other State or Tribal Courts who have issued valid protective orders and for the enforcement by the Bishop Paiute Tribe of such valid protective orders.

TITLE II

201. Bishop Tribal Court Authorization to Issue Protective Orders. The Bishop Paiute Tribal Court is hereby empowered/authorized to issue and thereafter enforce protective orders for the purposes of preventing violent or threatening acts, harassment, or sexual violence involving Tribal community members.

In addition to those equitable powers vested in the Tribal Court, the Tribal Court is given further grant of authority to order one or more of the following penalties within its discretion in order to obtain compliance of its orders/judgments:

- a. Suspension of selective Tribal services or all Tribal services being provided to the individual who is the subject matter of the Tribal Courts orders/judgments as within the discretion of the Tribal Court.
- b. Suspension of eligibility for participation in Tribal programs.
- c. Suspension of eligibility to receive Tribal per capita payments or the use of such per capita payments as directed by the Tribal Council to satisfy any and all outstanding orders or judgments of the Tribal Court.

Once the individual who is the subject matter of the Tribal Court's orders/judgments is in compliance with the appropriate Tribal Court order/judgment, the Court will order that any and all of the above remedies as set out shall no longer be in effect and the individual will be reinstated if then eligible for either Tribal services, Tribal programs or Tribal per capita payments.

The Bishop Tribal Court is also empowered, authorized and directed to prepare and publish court rules establishing the procedures by which protective orders shall be issued and enforced. Such court rules shall provide at a minimum that the party or parties who are the subject of any and all protective orders are given reasonable notice and opportunity to be heard, sufficient to protect his or her due process rights.

If the protective order is issued ex parte, notice and opportunity to be heard must be provided within the time required by the court rules, within a reasonable time after the protective order is issued, and sufficient time to protect the restrained (effected) party's due process rights.

The term protective order as it relates to the authority of the Bishop Paiute Tribe are limited to protective orders dealing specifically with preventing violent or threatening acts, harassment, or sexual violence.

202. Full Faith and Credit. A valid protective order issued by a state or tribal court shall be given full faith and credit by the Bishop Paiute Tribal Court, and enforced as if it were the order of the tribe.

The Bishop Paiute Tribe as the enforcing court determines how the protective order is enforced and determines the penalties and sanctions for violations of the order under Bishop Paiute Tribal law. The term Tribal law includes not only ordinances and written documentation, but also Tribal custom and practice. These remedies include but are not limited to suspension of Tribal services, monetary benefits such as sharing in Tribal per capita payments and eligibility for participation in Tribal programs.

A valid protective order issued by a state or tribal court must meet the following conditions:

The issuing court has jurisdiction over the parties and matter; and

Is currently in effect and identifies the protected party and the respondent;
and

The restrained party is given reasonable notice and opportunity to be heard
sufficient to protect his or her due process rights.

If the order is ex parte, notice and opportunity to be heard must be provided
within the time required by the issuing state or tribal law, within a
reasonable time after the order is issued, and sufficient to protect the
restrained party's due process rights.

Absence of any of the above criteria is an affirmative defense to an
enforcement action under this ordinance.

The term "protective order" includes:

Any injunction, restraining order, or any other order issued by a civil or
criminal court for the purpose of preventing violent or threatening acts,
harassment, or sexual violence against, or contact or communication with or
physical proximity to, another person, including any temporary or final order
issued by a civil or criminal court whether obtained by filing an independent
action or as a pendente lite order in another proceeding so long as any civil
or criminal order was issued in response to a complaint, petition, or motion
filed by or on behalf of a person seeking protection; and

The term "state" includes:

A state of the United States, the District of Columbia, and a common wealth,
territory, or possession of the United States.

The term "tribal court" refers to a tribal court authorized and established by a
federally recognized Indian tribe.

203. Amendments. This ordinance and the procedures/court rules promulgated
hereunder may be amended or rescinded by the Tribal Council at a duly called regular or
special meeting.

204. Effective date. This ordinance shall be effective upon the date of its
approval by the Tribal Council by way of certification.

CERTIFICATION

The foregoing ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the ____ day of _____, 2009, with a quorum present and voting: ____ Ayes, ____ Nays, ____ Abstaining, and ____ Absent, and the Chairman not voting.

Bishop Tribal Council:

Monty Bengochia, Tribal Chairman

Jasmine Andreas, Tribal Secretary/Treasurer