

Court Case Management Procedures for Processing Tribal Court Orders

Presenters
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Alaska Court System

- Are Tribal Protection Orders (TPO) given 'Full Faith and Credit' by State Court? **YES**
- Is a Tribe required to register a TPO with the State of Alaska to get 'Full Faith and Credit'/Enforcement? **NO**

Why Register with the State?

- The tribal protective order will be enforced because law enforcement will know it is a valid order and can locate it in the registry with the state assigned case number
- Ensure protection of tribal members
- Expedites enforcement by law enforcement, and increase likeliness of enforcing violations of an order

AS 18.66.140

Filing and enforcement of protective orders issued in other states (tribal courts).

A certified copy of an unexpired protective order issued in another jurisdiction may be filed with the clerk of court in any judicial district in this state.

(b) A protective order issued in another jurisdiction has the same effect and must be recognized and enforced in the same manner as a protective order issued by a court of this state, regardless of whether the protective order issued in another jurisdiction is filed as described in (a) of this section, if the protective order is:

- (1) issued by a court of the United States, a court of another state or territory, a United States military tribunal, or a **tribal court**;
- (2) related to domestic violence; and
- (3) entitled to full faith and credit under 18 U.S.C. 2265.

Once filed, the court must give a copy of the order to the appropriate local law enforcement agency for entry into the central registry of protective orders under [AS 18.65.540](#).

A protective order issued in another jurisdiction that appears authentic on its face is presumed valid.

Processing a Tribal Protective Order:

A. Verify that the filing is a **certified copy** of an order that appears to be in effect, in full or in part. Do not call the issuing court to verify that the order is still in effect.

Clerks shall accept faxed certified copies of protective orders issued by other states, tribes, or territories if the order is faxed by the issuing court, and the facsimile contains a completed *Verification Form for Filing a Foreign Domestic Violence Restraining Order by Fax (DV-215)*.

B. No filing fee required.

C. File stamp the order, indicating the date of filing.

D. Initiate a *Foreign Protective Order* case in CourtView.

E. Write the case number on all documents.

F. Tie documents in case file.

G. Distribute a copy of order to appropriate local law enforcement agency for entry into Alaska's Central Registry of Protective Orders. Do **NOT** distribute or serve this order on either party.

H. Note distribution on court's copy of order.

J. Close file.

Alaska's Central Registry of Protective Orders is contained in Alaska's Public Safety Information Network (APSIN). All active protective orders that are issued by or filed with the Alaska Court System are entered into the registry. Expired protective orders are stored as a historical record in APSIN. Law enforcement officers have access to both active and expired orders.

Alaska Court System

VERIFICATION FORM
FOR FILING A FOREIGN DOMESTIC VIOLENCE RESTRAINING ORDER
BY FAX
IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

The Alaska Court System will accept a faxed certified copy of a foreign domestic violence restraining order issued by other states, tribes, or territories only if it has been faxed by the issuing court. The person faxing the order must complete this form and fax it, along with the restraining order, to the local Alaska Court System court.

INFORMATION ABOUT TRIBAL OR STATE COURT FAXING THE ORDER

Name of issuing court: _____

Name of person faxing foreign protective order: _____

Title of person faxing foreign protective order: _____

Telephone number: _____

VERIFICATION OF THE PERSON FAXING THE ORDER

I acknowledge that the paper(s) attached to this verification are true and correct copy(s) of the original document(s) on file in the offices of the ☐ tribal court/council ☐ state court or ☐ territory court and that the document has not been altered.

Date

Signature

AS18.65.540
Central Registry of Protective Orders.

(a) The Department of Public Safety shall maintain a central registry of protective orders issued by or filed with a court of this state under [AS 13.26.450](#) 13.26.460, [AS 18.65.850](#) 18.65.870, or [AS 18.66.100](#) 18.66.180. The registry must include, for each protective order:

- the names of the petitioner and respondent, their dates of birth, and
- the conditions and duration of the order. The registry shall retain a record of the protective order after it has expired.

(b) A peace officer receiving a protective order from a court under [AS 13.26.450](#), 13.26.455, [AS 18.65.850](#) 18.65.855, or [AS 18.66.100](#) 18.66.180, a modified order issued under [AS 13.26.460](#), [AS 18.65.860](#), or [AS 18.66.120](#), or an order dismissing a protective order shall take reasonable steps to ensure that the order, modified order, or dismissal is entered into the central registry within 24 hours after being received.

(c) A petitioner or respondent who is the subject of a protective order may request the Department of Public Safety to correct information about the order in the central registry. The person requesting the correction has the burden of proving that the information is inaccurate or incomplete. The person may appeal an adverse decision to the court under applicable court rules for appealing the decision of an administrative agency. On appeal, the appellant has the burden of showing that the department's action was an abuse of discretion. An appeal filed under this subsection may not collaterally attack a protective order, challenge the grounds upon which the order was based, or challenge the evidence submitted in support of the order.

(d) The Department of Public Safety may adopt regulations to implement this section.

(e) A person may not bring a civil action for damages for a failure to comply with the provisions of this section.

Why choose to register your Tribal Child In Need of Protection Order with the State Court

Alaska has adopted court rules for Tribes to send child protection orders to the state court for recognition and enforcement.

State of Alaska CINA Rule 24 and Rule 25

State of Alaska CINA Rule 24 and Rule 25

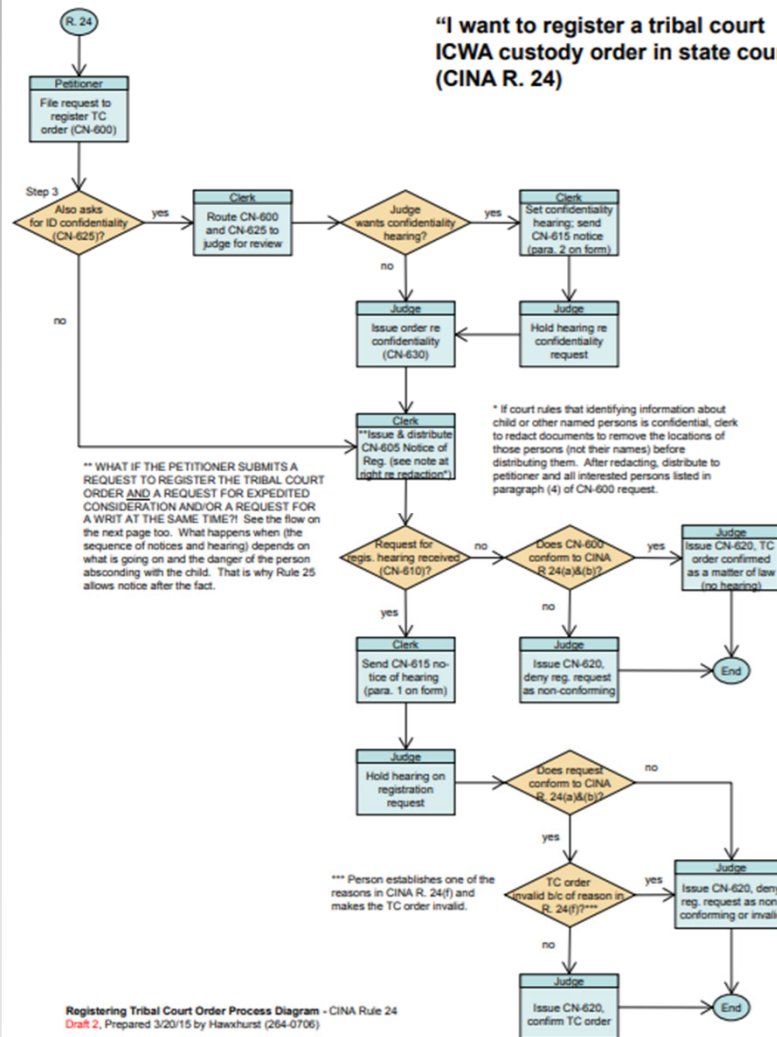
CINA Rule 24: Is the *Registration and Confirmation* of Tribal Court Orders under the Indian Child Welfare Act. Confirms the Tribal Court has: Jurisdiction, Order has not been stayed, vacated or modified. The person contesting did receive notice in a manner reasonable calculated to give actual notice of the proceeding before the court that issued...and had an opportunity to be heard.

CINA Rule 25: Is the *Expedited Enforcement* of Tribal Court Orders under the Indian Child Welfare Act. Ex Parte Hearing to Issue a *Writ of Assistance*.

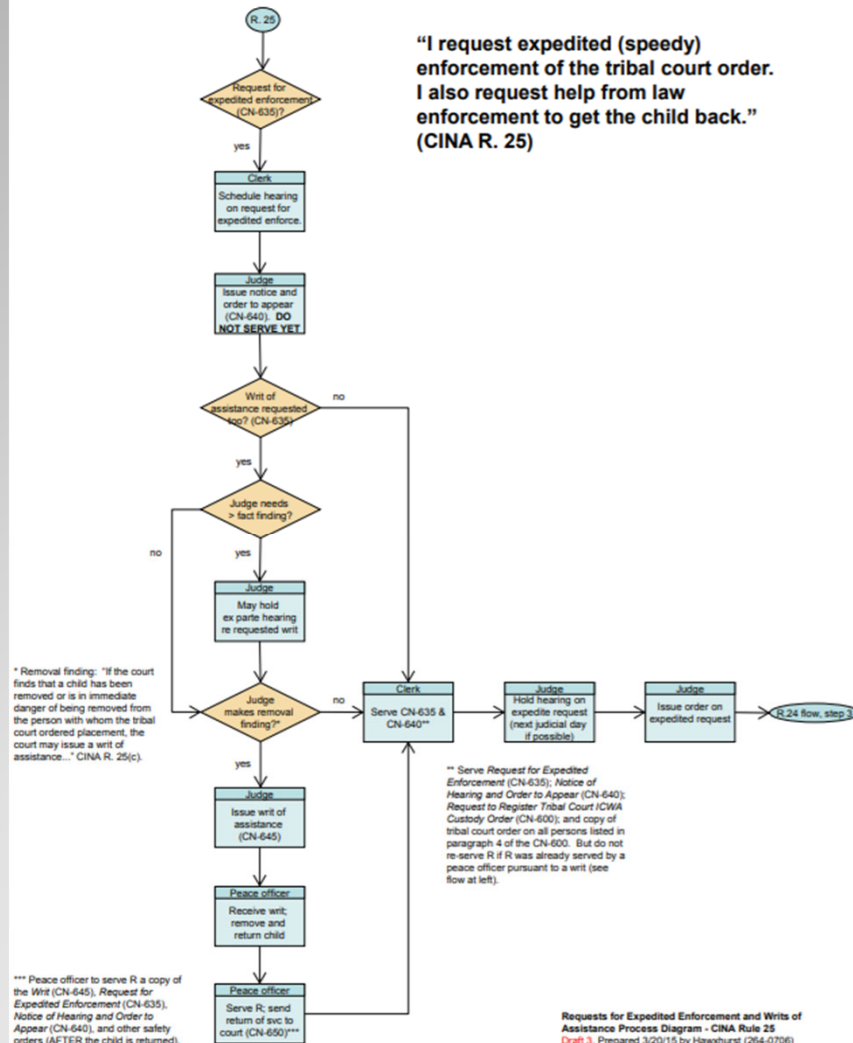
The benefits of registering a Tribal Child In Need of Protection Order is recognition and enforcement.

- A Tribe does not have to register their Tribal Child In Need of Protection Order, but they may.
- Under CINA Rule 25, the Tribe is able to get a Writ of Assistance for law enforcement or a peace officer assistance in removing a child.
- The Tribe needs to Register the Order using Rule 24 guidelines, at the same time as petitioning for Rule 25.
- If you will request law enforcement assistance you need to Register using CINA Rule 24 & 25.

**"I want to register a tribal court
ICWA custody order in state court."
(CINA R. 24)**



**"I request expedited (speedy) enforcement of the tribal court order. I also request help from law enforcement to get the child back."
(CINA R. 25)**



Where to find Forms to Register a Tribal Child In Need of Protection Order

- Alaska Court System website - <https://public.courts.alaska.gov/web/forms/docs/tribal-court-toolbox.pdf>
- Alaska Legal Services website - <https://alaskatribes.org/>