

**Cherokee Nation Code Annotated**

**Title 12: Civil Procedure**

**Chapter 5: Civil Protective Order**

**§ 503. Jurisdiction for civil protective orders**

Cite as: 12 CNCA § 503

A. The Cherokee Nation District Court shall have full civil jurisdiction to issue and enforce protection orders if:

1. an act of domestic violence has occurred within the territorial boundaries of the Cherokee Nation; or
2. if the order was issued within the authority of the Cherokee Nation in accordance with the Cherokee Nation Code Annotated.

B. Jurisdiction is not authorized over parties who are both are non-Indian.

C. The Cherokee Nation District Court shall have the authority to enforce any orders by:

1. civil contempt proceedings;
2. excluding violators from Indian land;
3. and to use other appropriate mechanisms, in matters arising anywhere within the jurisdiction of the Cherokee Nation or otherwise within the authority of the Cherokee Nation and according to Cherokee Nation law.

D. A protection order issued by any other tribal or state jurisdiction in accordance with 18 U.S.C. § 2265 shall be enforceable by the Cherokee Nation District Court and Cherokee Nation Marshal Service.

E. Cherokee Nation District Court shall have continuing jurisdiction over any proceedings for protective orders until such time as an alternative choice of forum shall have been decided.

F. Courts shall construe this section liberally to exercise maximum jurisdiction.

G. This section is not exclusive of the situations in which the Court may exercise jurisdiction.

**Historical Data and Statutory Notes**

LA 33–05, eff. November 12, 2005. Amended LA 13–18, eff. June 15, 2018.

*Legislative History:* Exclusive jurisdiction over civil protective order proceedings at subsection (A) is based upon exercise of exclusive tribal jurisdiction over crimes and civil matters on Indian lands which are not embodied in the Assimilative Major Crimes Act. Exclusive jurisdiction may alternatively be based upon case law based upon the individual facts in the case. Concurrent jurisdiction provisions at subsection (B) state the alternative grounds for jurisdiction: subject matter jurisdiction over a Cherokee respondent or Indian Country; subject matter jurisdiction over Cherokee lands where the exercise of police power is desirable for the health and safety of Cherokee citizens and the orderly administration of justice; enforcement of foreign protective orders; and interstitial jurisdiction pending the determination of the proper forum or forums. Subsection (C) mandates the Court to exercise jurisdiction where it can be liberally interpreted, under the sovereign power of Cherokee Nation to protect its citizens and the non-citizens within Cherokee Nation, against harm. Subsection (D) describes the Court's authorization to utilize jurisdictional theory to respond appropriately in light of many complex factual considerations which have been addressed by evolving case law, for example.

#### 2018 Legislation

LA 13–18, Section 2, provides:

"Section 2. Purpose. Congress has clarified with the reauthorization of the Violence Against Women Act (VAWA) of 2013, that tribal courts have full jurisdiction over all parties to a protective order if the protection order arose in Indian Country or if the order was issued within the authority of the Indian tribe per 18 U.S.C. 2265(e). This act expands the civil jurisdiction over civil protective orders to include non-Indians who have protective orders issued against them by an citizen of a federally recognized tribe."