





*(a) Full Faith and Credit.— Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State or tribe.*

*(b) Protection Order.— A protection order issued by a State, tribal, or territorial court is consistent with this subsection if—*

*(1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and*

*(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person’s right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent’s due process rights.*

*18 USC § 2265 ~ The Full Faith and Credit provision of the Violence Against Women Act*

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*4) During the period of 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15 to 34, and 75 percent were killed by family members or acquaintances.*

*5) Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women; and*

*6) The unique legal relationship of the United States to Indian tribes creates a federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.*



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An important provision within V.A.W.A. is its Full Faith and Credit section. This provision essentially directs all states, Indian tribes and U.S. territories to honor each others’ protection orders *as if the order was their own*. V.A.W.A.’s Full Faith and Credit provision is crucial for keeping tribal communities safe, yet many local law enforcement officers have been unaware of it directives.

The full faith and credit provisions of V.A.W.A. are not self-executing. This means it is the responsibility of each state, tribe and U.S. territory to establish their own laws and procedures for honoring foreign protection orders. *The Battered Women’s Justice Project, National Center on Protection Orders and Full Faith and Credit* freely provides a listing of state/territorial full faith and credit statutes. [1] It would be extremely prudent for anyone working on tribal lands, especially law enforcement and court personnel, to know their State’s enabling acts and set procedures for recognizing foreign protection orders.

For those who are working *boots on the ground*, it is important to recognize that tribal protection orders may not look exactly like state protection orders. Therefore, it would be wise to be familiar with what various tribal protection orders look like. Protection orders are meant to protect the individual(s) from abuse wherever they are (i.e. home – even if it’s a temporary shelter, or they are living with a family member or friend, work, school, etc.). Therefore, the applicable stipulations of a tribal protection order are to be enforced *whether someone is located on or off the reservation*.

An interesting note about the enforcement of the full faith and credit provision of V.A.W.A. (18 USC § 2265) is found in the United States Attorneys’ Criminal Resource Manual at section 1120 where it states:

*“Some State officials have suggested that § 2265 may be unconstitutional under the Tenth Amendment. It is the Department’s position that § 2265 is a valid exercise of Federal power under the Full Faith and Credit Clause of the Constitution and does not abridge the Tenth Amendment.” [2]*



*“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”*

*United States Constitution, TENTH AMENDMENT*

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## Endnotes

[1] “State and Territorial Full Faith and Credit Statutes” at: <http://www.fullfaithandcredit.org/files/bwjp/files/State%20and%20Territorial%20Full%20Faith%20and%20Credit%20Statutes%20Matrix%20%282012%29.pdf>

[2] U.S. Attorneys, USAM, Criminal Resource Manual 1120 at: [http://www.justice.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm01120.htm](http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm01120.htm)

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