



OPEN FOR PUBLIC COMMENT • DOMESTIC VIOLENCE CHAPTER

REVIEW GUIDE

The proposed amendments to the Nez Perce Tribal Code, **TITLE 7, DOMESTIC VIOLENCE** (~20 pages). Due to proposed reorganization, the usual track changes became confusing.

- Text in **blue font** is meant to distinguish **recommended text to be added**. Text in **purple font** is meant to highlight **SDVCJ** provisions as further described below.
- Text highlighted in **gray** is to cross-reference with the section’s current location (i.e., **7-1-1**).
- Proposed new sections are highlighted in light yellow in the table of contents.
- There are a handful of comments in the margin to offer context, information, or reasoning.
- **Why is the current definition “domestic household member” recommended to be changed?**

“Domestic household member” means spouses, former spouses, persons related by blood or marriage, persons who reside or who have resided together, and persons who have a child in common or are expecting a child together, regardless of whether they have been married or have lived together at any time. For the purpose of this Title, “reside” shall mean one’s personal presence at some place of abode with no present intention of leaving and with purpose to remain for an undetermined period of time, but not necessarily combined with the design to stay permanently.

N.P.T.C. §7-1-3(b).

- Using the current definition of “domestic household member” means assault/battery-type offenses between adult siblings (or between adult child and parent) are charged as domestic violence.
- Using the current definition of “domestic household member” leaves a loophole for dating violence between persons over the age of 18 years who do not reside together or have a child in common (i.e., “boyfriend loophole”).
- **Special Domestic Violence Criminal Jurisdiction (SDVCJ) over Non-Indians is very narrow and limited by the Federal Government**
 - Affirms the inherent sovereign authority of Indian tribal governments to exercise criminal jurisdiction over all persons, including non-Indians who violate qualifying protection orders or commit domestic or dating violence against Indian victims on tribal lands.
 - A non-Indian defendant must have “ties” to the community:



- Residing in the Indian country of the participating tribe;
 - Being employed in the Indian country of the participating tribe; or
 - Being a spouse, intimate partner, or dating partner of a tribal member, or an Indian who resides in the Indian Country of the participating tribe.
- Exercising SDVCJ over non-Indians does NOT currently include “stranger” crimes of sexual assault, stalking, etc.
 - Currently, SDVCJ over non-Indians does NOT include child abuse where a child is present & witnesses the DV offense or is also harmed during the DV incident.
 - The jury pool must reflect a “fair cross-section of the community” that does not “systematically exclude” anyone, including non-Indians.