

**Superseded 5/10/2016**

**78B-7-115 Dismissal of protective order.**

- (1) A protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of future abuse. In determining whether the petitioner no longer has a reasonable fear of future abuse, the court shall consider the following factors:
  - (a) whether the respondent has complied with treatment recommendations related to domestic violence, entered at the time the protective order was entered;
  - (b) whether the protective order was violated during the time it was in force;
  - (c) claims of harassment, abuse, or violence by either party during the time the protective order was in force;
  - (d) counseling or therapy undertaken by either party;
  - (e) impact on the well-being of any minor children of the parties, if relevant; and
  - (f) any other factors the court considers relevant to the case before it.
- (2) The court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if it finds that:
  - (a) the basis for the issuance of the protective order no longer exists;
  - (b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order;
  - (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and
  - (d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges involving violent conduct still on file with the court.
- (3) The court shall enter sanctions against either party if the court determines that either party acted:
  - (a) in bad faith; or
  - (b) with intent to harass or intimidate either party.
- (4) Notice of a motion to dismiss a protective order shall be made by personal service on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil Procedure.
- (5) If a divorce proceeding is pending between the parties to a protective order, the protective order shall be dismissed when the court issues a decree of divorce for the parties if:
  - (a) the petitioner in the protective order action is present or has been given notice in both the divorce and protective order action of the hearing; and
  - (b) the court specifically finds that the order need not continue.
- (6) When the court dismisses a protective order, the court shall immediately issue an order of dismissal to be filed in the protective order action and transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.