

**PROTECTIVE ORDER AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Angela Romero**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill modifies protective order provisions in the Judicial Code by amending dismissal of protective order provisions.

**Highlighted Provisions:**

This bill:

- ▶ amends protective order provisions for a dismissal in the case of a pending divorce proceeding under certain conditions; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-7-115**, as last amended by Laws of Utah 2009, Chapter 232

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78B-7-115** is amended to read:

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

(1) [A] Except as provided in Subsection (6), 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

30 reasonable fear of future abuse, the court shall consider the following factors:

31 (a) whether the respondent has complied with treatment recommendations related to  
32 domestic violence, entered at the time the protective order was entered;

33 (b) whether the protective order was violated during the time it was in force;

34 (c) claims of harassment, abuse, or violence by either party during the time the  
35 protective order was in force;

36 (d) counseling or therapy undertaken by either party;

37 (e) impact on the well-being of any minor children of the parties, if relevant; and

38 (f) any other factors the court considers relevant to the case before it.

39 (2) [~~The~~] Except as provided in Subsection (6), the court may amend or dismiss a  
40 protective order issued in accordance with this part that has been in effect for at least one year  
41 if it finds that:

42 (a) the basis for the issuance of the protective order no longer exists;

43 (b) the petitioner has repeatedly acted in contravention of the protective order  
44 provisions to intentionally or knowingly induce the respondent to violate the protective order;

45 (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable  
46 fear of the respondent; and

47 (d) the respondent has not been convicted of a protective order violation or any crime  
48 of violence subsequent to the issuance of the protective order, and there are no unresolved  
49 charges involving violent conduct still on file with the court.

50 (3) The court shall enter sanctions against either party if the court determines that  
51 either party acted:

52 (a) in bad faith; or

53 (b) with intent to harass or intimidate either party.

54 (4) Notice of a motion to dismiss a protective order shall be made by personal service  
55 on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil  
56 Procedure.

57 (5) If a divorce proceeding is pending between [~~the~~] parties to a protective order action,

58 the protective order shall be dismissed when the court issues a decree of divorce for the parties  
59 if:

60 (a) the petitioner in the protective order action is present or has been given notice in  
61 both the divorce and protective order action of the hearing; and

62 (b) the court specifically finds that the order need not continue~~[-]~~, and as provided in  
63 Subsection (1), the petitioner no longer has a reasonable fear of future abuse.

64 (c) (a) Notwithstanding Subsection (1) or (2), a protective order that has been entered  
65 under this chapter concerning a petitioner and a respondent who are divorced shall  
66 automatically expire, subject to Subsections (6)(b) and (c), 10 years from the day on which one  
67 of the following occurs:

68 (i) the decree of divorce between the petitioner and respondent became absolute; or

69 (ii) the protective order was entered.

70 (b) The protective order shall automatically expire, as described in Subsection (6)(a),  
71 unless:

72 (i) the petitioner demonstrates that the petitioner has a reasonable fear of future abuse,  
73 as described in Subsection (1); or

74 (ii) the respondent has been convicted of a protective order violation or any crime of  
75 violence subsequent to the issuance of the protective order.

76 (c) The 10 years described in Subsection (6)(a) is tolled for any period of time that the  
77 respondent is incarcerated.

78 ~~[(6)]~~ (7) When the court dismisses a protective order, the court shall immediately:

79 (a) issue an order of dismissal to be filed in the protective order action; and

80 (b) transmit a copy of the order of dismissal to the statewide domestic violence  
81 network as described in Section 78B-7-113.