

Representative Angela Romero proposes the following substitute bill:

PROTECTIVE ORDER AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Lyle W. Hillyard

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

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

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



26 **78B-7-115. Dismissal of protective order.**

27 (1) ~~§~~→ **Except as provided in Subsection (6), [A] a** ←~~§~~ protective order that has been in
27a effect for at least two years may be dismissed if
28 the court determines that the petitioner no longer has a reasonable fear of future abuse. In
29 determining whether the petitioner no longer has a reasonable fear of future abuse, the court
30 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) ~~§~~→ **Except as provided in Subsection (6), [The] the** ←~~§~~ court may amend or dismiss a
39a protective order issued in accordance with this

40 part that has been in effect for at least one year if it finds that:

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

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

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

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

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

51 (a) in bad faith; or

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

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

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

57 the protective order ~~H~~→ [H] shall [H] ~~may~~ ←~~H~~ be dismissed when the court issues a decree
 57a of divorce for the
 58 parties if:

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

61 (b) the court ~~H~~→ [H] specifically finds that the order need not continue [H]←~~H~~ [;] ,

61a ~~H~~→ [~~after making specific~~

62 ~~findings on each factor described~~] and as provided ←~~H~~ in Subsection (1), ~~H~~→ [~~determines that~~] ←~~H~~

62a the petitioner no longer has

63 a reasonable fear of future abuse.

63a ~~S~~→ (6) (a) Notwithstanding Subsection (1) or (2), a protective order that has been entered

63b under this chapter concerning a petitioner and a respondent who are divorced shall

63c automatically expire, subject to Subsections (6)(b) and (c), 10 years from the day on which one

63d of following occurs:

63e (i) the decree of divorce between the petitioner and respondent became absolute; or

63f (ii) the protective order was entered.

63g (b) The protective order shall automatically expire, as described in Subsection (6)(a), unless:

63h (i) the petitioner demonstrates that the petitioner has a reasonable fear of future abuse, as

63i described in Subsection (1); or

63j (ii) the respondent has been convicted of a protective order violation or any crime of violence

63k subsequent to the issuance of the protective order.

63l (c) The 10 years described in Subsection (6)(a) is tolled for any period of time that the

63m respondent is incarcerated. ←~~S~~

64 ~~S~~→ [~~(6)~~] (7) ←~~S~~ When the court dismisses a protective order, the court shall immediately:

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

66 (b) transmit a copy of the order of dismissal to the statewide domestic violence

67 network as described in Section 78B-7-113.