

1 **PROTECTIVE ORDER AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Angela Romero**

5 Senate Sponsor: Lyle W. Hillyard

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **78B-7-115**, as last amended by Laws of Utah 2009, Chapter 232

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

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

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

27 (1) A protective order that has been in 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) The court may amend or dismiss a 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 [~~shall~~] may be dismissed when the court issues a decree 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 [~~specifically finds that the order need not continue.~~], after making specific
62 findings on each factor described in Subsection (1), determines that the petitioner no longer has
63 a reasonable fear of future abuse; and

64 (c) the court informs the petitioner of the effect of the dismissal.

65 (6) When the court dismisses a protective order, the court shall immediately:

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

67 (b) transmit a copy of the order of dismissal to the statewide domestic violence
68 network as described in Section [78B-7-113](#).

Legislative Review Note
Office of Legislative Research and General Counsel