

Article 14. Civil Protection Orders

§ 13-14-108. Modification and termination of civil protection orders

(1) Any order granted pursuant to section 13-14-105(1)(c) or (1)(e) must terminate whenever a subsequent order regarding the same subject matter is granted pursuant to the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., the “Uniform Child-custody Jurisdiction and Enforcement Act”, article 13 of title 14, C.R.S., or the “Colorado Children's Code”, title 19, C.R.S.

(2)(a) Nothing in this article precludes the protected party from applying to the court at any time for modification, including but not limited to a modification of the duration of a protection order or dismissal of a temporary or permanent protection order issued pursuant to this section.

(b) The restrained party may apply to the court for modification, including but not limited to a modification of the duration of the protection order or dismissal of a permanent protection order pursuant to this section. However, if a permanent protection order has been issued or if a motion for modification or dismissal of a permanent protection order has been filed by the restrained party, whether or not it was granted, no motion to modify or dismiss may be filed by the restrained party within two years after issuance of the permanent order or after disposition of the prior motion.

(3)(a)(I) Notwithstanding any provision of subsection (2) of this section to the contrary, after issuance of the permanent protection order, if the restrained party has been convicted of or pled guilty to any misdemeanor or any felony against the protected person, other than the original offense, if any, that formed the basis for the issuance of the protection order, then the protection order remains permanent and must not be modified or dismissed by the court.

(II) Notwithstanding the prohibition in subparagraph (I) of this paragraph (a), a protection order may be modified or dismissed on the motion of the protected person, or the person's attorney, parent or legal guardian if a minor, or conservator or legal guardian if one has been appointed; except that this paragraph (a) does not apply if the parent, legal guardian, or conservator is the restrained person.

(b) A court shall not consider a motion to modify a protection order filed by a restrained party pursuant to paragraph (a) of this subsection (3) unless the court receives the results of a fingerprint-based criminal history record check of the restrained party that is conducted within ninety days prior to the filing of the motion. The fingerprint-based criminal history record check must include a review of the state and federal criminal history records maintained by the Colorado bureau of investigation and federal bureau of investigation. The restrained party shall be responsible for supplying fingerprints to the Colorado bureau of investigation and to the federal bureau of investigation and paying the costs of the record checks. The restrained party may be required by the court to provide certified copies of any criminal dispositions that are not

reflected in the state or federal records and any other dispositions that are unknown.

(4) Except as otherwise provided in this article, the issuing court retains jurisdiction to enforce, modify, or dismiss a temporary or permanent protection order.

(5) The court shall hear any motion filed pursuant to subsection (2) of this section. The party moving for a modification or dismissal of a temporary or permanent protection order pursuant to subsection (2) of this section shall affect personal service on the other party with a copy of the motion and notice of the hearing on the motion, as provided by rule 4(e) of the Colorado rules of civil procedure. The moving party shall bear the burden of proof to show, by a preponderance of the evidence, that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary. If the protected party has requested that his or her address be kept confidential, the court shall not disclose such information to the restrained party or any other person, except as otherwise authorized by law.

(6) In considering whether to modify or dismiss a protection order issued pursuant to this section, the court shall consider all relevant factors, including but not limited to:

(a) Whether the restrained party has complied with the terms of the protection order;

(b) Whether the restrained party has met the conditions associated with the protection order, if any;

(c) Whether the restrained party has been ordered to participate in and has completed a domestic violence offender treatment program provided by an entity approved pursuant to section 16-11.8-103, C.R.S., or has been ordered to participate in and has either successfully completed a sex offender treatment program provided by an entity approved pursuant to section 16-11.7-103, C.R.S., or has made significant progress in a sex offender treatment program as reported by the sex offender treatment provider;

(d) Whether the restrained party has voluntarily participated in any domestic violence offender treatment program provided by an entity approved pursuant to section 16-11.8-103, C.R.S., or any sex offender treatment program provided by an entity approved pursuant to section 16-11.7-103, C.R.S.;

(e) The time that has lapsed since the protection order was issued;

(f) When the last incident of abuse or threat of harm occurred or other relevant information concerning the safety and protection of the protected person;

(g) Whether, since the issuance of the protection order, the restrained person has been convicted of or pled guilty to any misdemeanor or any felony against the protected person, other than the original offense, if any, that formed the basis for the issuance of the protection order;

(h) Whether any other restraining orders, protective orders, or protection orders have been

subsequently issued against the restrained person pursuant to this section or any other law of this state or any other state;

(i) The circumstances of the parties, including the relative proximity of the parties' residences and schools or work places and whether the parties have minor children together; and

(j) Whether the continued safety of the protected person depends upon the protection order remaining in place because the order has been successful in preventing further harm to the protected person.