

Requests to Dismiss or Terminate Protective Order

Kentucky Judicial Bench Card



Questions to Consider for Requests to Dismiss or Terminate a Protective Order

- Why do you want to drop the order?
- Have you been pressured in any way to drop the order? By the Respondent's family or friends? By your family or friends? By children?
- Have you spoken with a victim's advocate or an attorney about this request? I would like to give you time to do so privately right now.
- Do you realize you can modify the order and still maintain protections? I can amend this order to "no violent contact" with you and/or your children.
- Without sharing any details, do you have a safety plan in place for what you will do if this happens again?
- Do you understand abuse is a learned behavior and therefore a choice and without some sort of intervention the Respondent's behaviors may not change?
- Has the Respondent expressed accountability for their behavior?

Questions to Consider Regarding Safety of Children Named in Protective Order

- Has the Respondent directed abuse toward the children? Even as a way to punish or control the Petitioner?
- Has the Respondent ever threatened to hurt the children?
- Has the Respondent ever treated any of the children differently because they are not biologically related (either perceived or actual) or because of a child's disability or difference?
- Are there indicators the children have been negatively affected by the Respondent's behavior?
- Does the Respondent express jealousy of the children and the attention they receive from the Petitioner?
- Has the Respondent threatened to take the children away from the Petitioner?
- Has the Respondent ever involved children in any abuse toward the Petitioner?
- Does the Petitioner fear the Respondent may abuse or harm the children?

Questions to Consider Regarding Lethality

- Are there indications the Respondent has:
 - access to firearms?
 - threatened the Petitioner and/or child with a weapon?
 - ever threatened to kill the Petitioner and/or child?
 - ever strangled the Petitioner and/or child?
 - stalked the Petitioner?
- forced the Petitioner to have sex when the Petitioner did not want to?
- attempted to control the Petitioner's daily activities?
- attempted to control who the Petitioner can speak to or how the Petitioner spends their time?
- led the Petitioner to believe they are capable of killing the Petitioner?

Best Practices to Enhance Safety

When a Petitioner is requesting dismissal of a protective order:

- Ask the Petitioner about their motivation for the request to dismiss.
- Suggest the Petitioner meet with an attorney or advocate to answer any questions, explain options, and/or to create a safety plan. If possible, provide this time before the motion for dismissal is decided upon by the court.
- Consider the safety of any children involved as well as the adult Petitioner.
- If motion for dismissal is granted, remind the Petitioner they may file for a new order at any time.
- Provide referrals to service agencies that serve victims of domestic violence.

Understanding Victim Behavior

Separation is a process, not a single act. Research shows it may take several attempts before victims can safely separate from an abusive partner.¹ Therefore, it is important to remind victims they may refile/return to court if abuse continues or recurs.

There are numerous legitimate reasons a victim may request to dismiss a protective order, many of which are a response to threats and safety. For example:

- Economic abuse occurs in 99% of relationships with an abusive partner.² A victim may not have sufficient economic resources to remain independent from the abusive partner, especially if children are involved.
- Separation from an abusive partner is the most dangerous time for victims and families.³ The violence rarely stops when the relationship ends/the victim separates from the abusive partner. In fact, Respondents may escalate threats and violence in attempt to regain control over the victim.
- Because of the complexity of relationships between victims and abusive partners, both the Respondent and the Petitioner may deny, minimize, or excuse the violence.⁴
- The Petitioner may experience victim-blaming and extreme pressure from family, religious or cultural communities, and others to preserve the relationship despite the abuse, especially when children are involved. Or the victim may be blamed for any consequences experienced by the Respondent.

KRS 403.745 (5) Upon proper filing of a motion, either party may seek to amend an order of protection.

1. Anderson, D. et al. (2003) Leaving an Abusive Partner: An Empirical Review of Predictors, the Process of Leaving, and Psychological Well-Being. *Trauma Violence & Abuse* 4(2):163-91.; Di Basilio, D. et al. (2022) Conceptualizing the separation from an abusive partner as a multifactorial, non-linear, dynamic process: A parallel with Newton's laws of motion. *Frontiers in Psychology*.

2. National Network to End Domestic Violence. Financial Abuse Fact Sheet.

3. Campbell, J. C., et al. (2003). Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American Journal of Public Health* 93 (7), 1089-1097

4. Smyth, M. R. et al. (2023). How Does Denial, Minimization, Justifying, and Blaming Operate in Intimate Partner Abuse Committed by Men: A Systematic Review of the Literature. *Trauma, Violence, & Abuse*,