

## INSTRUCTIONS FOR RESTRAINED PERSON Motion to Modify / Dismiss Protection Order

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

### GENERAL INFORMATION BEFORE YOU FILE YOUR MOTION

- ◆ **For a Permanent Protection Order issued on or after July 1, 2013:** To file a Motion to Modify or Dismiss a Protection Order with the Court, two years must have passed after issuance of the Permanent Protection Order or after disposition of any prior motion.
- ◆ **For a Permanent Protection Order issued prior to July 1, 2013:** To file a Motion to Modify or Dismiss a Protection Order with the Court, four years must have passed after issuance of the Permanent Protection Order or after disposition of any prior motion. Click on the following link to access the statute as it existed prior to July 1, 2013: [§13-14-102, C.R.S.](#)
- ◆ If, after the issuance of the Permanent Protection Order, you have been convicted of or plead guilty to any misdemeanor or 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.** It is important to understand that any violations after the permanent protection order is issued are taken into consideration.
- ◆ You must complete a fingerprint-based criminal history record check prior to filing your Motion.
- ◆ The Court will not consider the Motion unless the fingerprint-based criminal history record check is conducted within 90 days prior to the filing of the Motion.
- ◆ It is your responsibility to prove that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary.
- ◆ For additional information, please review Colorado Revised Statute §13-14-108, C.R.S.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website: [http://www.courts.state.co.us/Administration/HR/ADA/Coordinator\\_List.cfm](http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm)

### COMMON TERMS

<input checked="" type="checkbox"/> Motion:	Document officially commences the Motion to Modify / Dismiss process.
<input checked="" type="checkbox"/> Moving Party:	The person who files a Motion.
<input checked="" type="checkbox"/> Protected Person:	The person who was granted a protection order against another party.
<input checked="" type="checkbox"/> Restrained Person:	The person who is to remain away from making contact with another person.
<input checked="" type="checkbox"/> May:	In legal terms, "may" is defined as "optional" or "can."
<input checked="" type="checkbox"/> Shall:	In legal terms, "shall" is defined as "required."

**If you do not understand this information, please contact an attorney.**

### FEES

There is no filing fee. Other fees that you may encounter are as follows:

- |   |  |
|---|--|
| <input type="checkbox"/> Copy of Documents                        | \$ .75 per page  |
| <input type="checkbox"/> Certification Fee                        | \$20.00 per document   |
| <input type="checkbox"/> Cost of Fingerprints                     | Varies (Payable to local law enforcement)                                    |
| <input type="checkbox"/> Fingerprint-based Criminal History Check | (Payable to CBI by Cash or Money Order only)                                 |
| <input type="checkbox"/> Fingerprint-based Criminal History Check | (Payable to Treasury of the United States by Money Order or Certified Check) |

## FORMS

To access a form online go to [www.courts.state.co.us](http://www.courts.state.co.us) and click on the “Forms” tab. The packet/forms are available in PDF or WORD by selecting “Protection Orders”. Please click either PDF or WORD by the title of the form. You may complete a form online or you may print it and type or print legibly in black ink.

- JDF 397 Motion to Modify / Dismiss Temporary / Permanent Protection Order
- JDF 410 Order Modifying Protection Order
- JDF 415 Order Vacating Protection Order

## STEPS TO FILING YOUR MOTION

### Step 1: Complete the required Fingerprint-based Criminal History Record Check.

The Restrained Person must submit a criminal history record check from the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) at the time the Motion is filed. Please follow these steps:

- Contact your local law enforcement office to be fingerprinted. The Court may provide you with two fingerprint cards, or, in the event that your local court does not provide them, your local sheriff's department should. You will see a box labeled “Reason Fingerprinted” on the card in the upper left hand corner. Identify “§13-14-108 Protection Order” in the reason printed block of the card. It is important that the CBI and FBI know that the criminal history record check is for a modification or dismissal of a protection order. Please write your name, home address, and date of birth clearly on the fingerprint card. If the agency completing the fingerprints uses an electronic print system, please do not write on the cards as the agency will automatically input the information.
- You are responsible for mailing or hand-delivering the completed fingerprint cards to the CBI and the FBI. Allow up to 13 weeks to process the criminal history check from the FBI. It can take 4 weeks to receive your criminal history check back from the CBI. **The criminal history results must be conducted within 90 days prior to the filing of the Motion.** For this reason, it is best to mail your FBI fingerprint card, wait 7 - 9 weeks, and then mail or hand-deliver your CBI fingerprint card. You will be provided with a full report from both agencies.
- The FBI requires an applicant information form to be submitted along with the fingerprint card. This applicant information form, along with additional information on FBI requests, can be obtained at the following link: <https://www.fbi.gov/services/cjis/identity-history-summary-checks>
- Mail the completed fingerprint card and applicant information form to the FBI at, Criminal Justice Information Services (CJIS) Division, Attn: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 along with a certified check or money order. **Do not fold the fingerprint card.**
- Mail or hand-deliver your completed CBI fingerprint card to the CBI at 690 Kipling, Denver, Colorado 80215 along with a money order. **Do not fold the fingerprint card.** If you hand-deliver the fingerprint card, you can also pay by cash.
- If you have a felony conviction recorded in Colorado or any other state, and you know that it is inaccurate, it is your responsibility to obtain the disposition information from the court where such action occurred as identified in the CBI and FBI reports.
- You are also responsible for providing certified copies of any criminal dispositions that are not reflected in the Colorado Bureau of Investigations or Federal Bureau of Investigation records and any other dispositions which are unknown, by contacting the agency where such actions occurred.

### Step 2: Complete Appropriate Forms.

Please refer to the list of required forms above to determine which forms must be submitted when filing your Motion based on your individual circumstances.

- Contact the Court where you plan to file your Motion for specific days or times when hearings to modify or dismiss a protection order are scheduled and to determine if they have any other filing requirements.
- The caption below needs to be completed on all forms filed.
- Use the case number on all of your forms that corresponds to the case number on your original Temporary or Permanent Protection Order.**

<input type="checkbox"/> Municipal Court <input type="checkbox"/> County Court <input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile <input type="checkbox"/> Denver Probate _____ County, Colorado Court Address: _____ Petitioner(s): _____ v. Respondent: _____	▲ <b>COURT USE ONLY</b> ▲
Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: _____ Division _____ Courtroom _____
<b>NAME OF FORM</b>	

- Motion to Modify / Dismiss Temporary / Permanent Protection Order (JDF 397).**
  - Complete all necessary sections on this form.
  - This Motion must be signed in the presence of a Court Clerk or Notary Public.
  - Attach the fingerprint based FBI and the CBI criminal history checks to the Motion and identify as Exhibit A. **Make sure that the fingerprint-based criminal history record checks are conducted within 90 days prior to the filing of the Motion.**
  - Attach any other criminal disposition documentation and identify as Exhibit B.
  - Make two complete sets of copies.
  
- Order Modifying Protection Order (JDF 410).**
  - Complete caption only.
  - The Judge or Magistrate will complete the appropriate portions on the forms and sign the order at the time of the hearing, if your Motion is approved.

**or**

- Order Vacating Protection Order (JDF 415).**
  - Complete caption only.
  - The Judge or Magistrate will complete the appropriate portions on the forms and sign the order at the time of the hearing, if your Motion is approved.

**Step 3: You are ready to file your Motion with the Court.**

- Provide the Court with the documents completed as described in Steps 1 - 2 above.
- If the Motion has not been signed in the presence of a Notary Public, you will sign the Motion before the Clerk at this time.
- The clerk at the Court will fill in the hearing date and time on your Motion.

**Step 4: Complete Personal Service.**

You shall complete personal service on the other party with a copy of the Motion and all of the attachments per rule 4(e) of the Colorado Rules of Civil Procedure prior to the court appearance date given to you by the clerk.  
 Helpful Hints to complete personal service:

- Take a copy of the Motion to the Sheriff's Department, a private process server, or someone you know who is 18 years or older, who is not a party to the case, and who knows the rules of service to serve the other person.

- Be sure to direct the sheriff, private process server, or person serving the order to return a copy of the Return of Service to you and to file the original with the Court as soon as possible after service has been completed.
- If the address of the Protected Person is confidential and you have been unable to attain personal service, inquire with the Court to determine what procedures can be completed.
- The process server will need to return the completed return of service to the Court for filing, or return it to you to bring and file with the Court before the Court date.

**Step 5: Be Prepared for your Hearing.**

You may be asked questions about your request to modify or dismiss your Protection Order.

- If the Court orders that the Protection Order is modified or dismissed, you will be provided with an Order stating such.
- If your Order is modified, you may also be provided with a new temporary or permanent protection order that indicates all current conditions of the protection order.
- If the Protected Person is not present at the hearing, the protected person must be personally served with a copy of the order and the new protection order as soon as possible. It is your responsibility to complete personal service. Follow the steps outlined in Step 4 above.