

COMMENT

If the request for modification is from the defendant or is for a change in the contact between the parties, the court should schedule a hearing.

PROTOCOL 9-5

Any court-ordered modification of any order issued under RSA 173-B is effective upon issuance.

PROTOCOL 9-6

Any court-ordered modification shall be provided to the parties and shall be mailed or otherwise provided to the appropriate local law enforcement agency immediately. Similarly, any modification shall be transmitted to the TCC for entry into the registry.

NOTE: RSA 173-B:8, III requires that modification orders be transmitted to the Department of Safety **within 24 hours** of issuance. However, the Department of Safety no longer accepts such orders. It only maintains a registry of emergency telephonic orders. The Trial Court Center is now responsible for entering orders of protection, including for modification, expiration, or withdrawal, into the NCIC Protective Order Registry. The purpose of the statutory provision requiring transmission of the order to the Department of Safety was to make the information readily available to law enforcement officers statewide. That purpose is served when the order is entered into the NCIC Protective Order Registry.

B. EXTENSION OF ORDERS

RSA 173-B:5, VI (Relief) provides that a domestic violence order may be extended upon motion of the plaintiff, showing good cause, with notice to the defendant. A defendant has a right to a hearing on the extension of any order **within 30 days** of the extension.

PROTOCOL 9-7

Upon plaintiff's request that an order be extended, staff should ask the plaintiff to complete an updated Defendant Information Sheet for Law Enforcement to have current information.

PROTOCOL 9-8

A final order may be extended upon written motion of the plaintiff, with notice to the defendant. If the court, in its discretion, finds good cause for the extension, the court may extend the final protective order for one year on the first extension request, and thereafter, each extension may be up to five years. The court shall fashion the order to provide for the safety and well-being of the plaintiff.

COMMENT

A request for extension does not require a showing of a new incident of abuse. The plaintiff must only allege good cause for why there continues to be fear for safety. An example might be the defendant's recent release from incarceration following conviction for assault on the plaintiff. See MacPherson v. Weiner, 158 N.H. 6,11 (2008). The Court must assess whether current conditions are such that there is still a concern for the safety and well-being of the plaintiff. Depaula v. Depaula N.H. (2009)

PROTOCOL 9-9

Upon issuance, the order shall be mailed to the defendant and the local law enforcement agency, and transmitted to the TCC for entry.

PROTOCOL 9-10

If the court determines, based upon the motion, that good cause does not exist to extend the order, the court shall schedule a hearing with notice to both parties.

PROTOCOL 9-11

If the court grants the extension based upon plaintiff's showing of good cause, the court shall send a copy of the plaintiff's motion and the extension order to the defendant. Included with this mailing shall be notice to the defendant of the right to object within ten days, and that if an objection is filed, a hearing will be scheduled on defendant's objection within 30 days of the extension. No hearing is needed unless an objection is timely filed.

NOTE WELL: The extension order must be sent to the Trial Court Center registry immediately upon issuance. If the court schedules a hearing, the court must inform the Trial Court Center registry that the Protection Order is extended to a date certain so that Protection Order does not expire out of NCIC.

PROTOCOL 9-12

If the defendant objects and a hearing is scheduled, the court may either reaffirm the extension order, modify it, or vacate it entirely and dismiss the case. If the order is extended, the court shall articulate in writing its basis for granting plaintiff's motion if so requested by the defendant.

PROTOCOL 9-13

If a plaintiff requests an extension of a final order after the order has expired, the plaintiff should be instructed to file a new petition for temporary *ex parte* relief. It is not necessary that the plaintiff allege new facts in the petition. The court should grant the petition if the plaintiff refers to the original order and shows good cause why that order should be extended, provided the court finds that the defendant continues to present a credible threat to the plaintiff's safety. The court should then proceed in accordance with the protocols set forth in Chapter 5.

