

1 **MOTIONS TO VACATE EX PARTE**

2 **PROTECTIVE ORDERS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Patricia B. Larson**

6 AN ACT RELATING TO THE COHABITANT ABUSE ACT; PROVIDING THAT A
7 RESPONDENT TO AN EX PARTE PROTECTIVE ORDER MAY MOVE TO VACATE
8 THAT ORDER; AND PROVIDING FOR AN EXPEDITED HEARING.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **30-6-4.3**, as enacted by Chapter 300, Laws of Utah 1995

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

13 Section 1. Section **30-6-4.3** is amended to read:

14 **30-6-4.3. Hearings on ex parte orders.**

15 (1) (a) When a court issues an ex parte protective order the court shall set a date for a
16 hearing on the petition within 20 days after the ex parte order is issued.

17 (b) If at that hearing the court does not issue a protective order, the ex parte protective
18 order shall expire, unless it is otherwise modified by the court.

19 (c) If at that hearing the court issues a protective order, the ex parte protective order
20 remains in effect until service of process of the protective order is completed.

21 (d) A protective order issued after notice and a hearing is effective until further order of
22 the court.

23 (2) Upon a hearing under this section, the court may grant any of the relief described in
24 Section 30-6-4.2.

25 (3) When a court denies a petition for an ex parte protective order or a petition to modify
26 an order for protection ex parte, the court shall set the matter for hearing upon notice to the
27 respondent.

1 (4) A respondent who has been served with an ex parte protective order may seek to vacate
2 the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a) by filing
3 a verified motion to vacate. ĥ [~~That motion shall be heard by the judge who issued the ex parte~~
4 protective order pursuant to Subsection (1).] ĥ The respondent's verified motion to vacate and a
5 notice of hearing on that motion shall be personally served on the petitioner at least two days prior
6 to the hearing on the motion to vacate.

Legislative Review Note
as of 1-8-98 2:16 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel