

1 **PENALTY FOR ASSAULT OF PEACE**

2 **OFFICER**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gerry A. Adair**

6 AN ACT RELATING TO CRIMINAL CODE AND PUBLIC SAFETY; INCREASING THE
7 PENALTY FOR ASSAULT ON A PEACE OFFICER.

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

9 AMENDS:

10 **76-3-203.3**, as enacted by Chapter 102, Laws of Utah 1992

11 **76-5-102.4**, as last amended by Chapter 172, Laws of Utah 1998

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

13 Section 1. Section **76-3-203.3** is amended to read:

14 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

15 As used in this section:

16 (1) "Primary offense" means those offenses provided in Subsection (5).

17 (2) A person who commits any primary offense with the intent to intimidate or terrorize
18 another person or with reason to believe that his action would intimidate or terrorize that person
19 is guilty of a third degree felony.

20 (3) "Intimidate or terrorize" means an act which causes the person to fear for his physical
21 safety or damages the property of that person or another. The act must be accompanied with the
22 intent to cause a person to fear to freely exercise or enjoy any right secured by the Constitution or
23 laws of the state or by the Constitution or laws of the United States.

24 (4) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
25 notice on the complaint in misdemeanor cases that the defendant is subject to a third degree felony
26 provided under this section. The notice shall be in a clause separate from and in addition to the
27 substantive offense charged.

28 (b) If the notice is not included initially, the court may subsequently allow the prosecutor
29 to amend the charging document to include the notice if the court finds:

30 (i) that the amended charging documents, including any statement of probable cause,
31 provide notice that the defendant is subject to a third degree felony provided under this section;
32 and

33 (ii) that the defendant has not otherwise been substantially prejudiced by the amendment.

34 (5) Primary offenses referred to in Subsection (2) are the misdemeanor offenses for:

35 (a) assault and related offenses under Sections 76-5-102, [~~76-5-102.4~~] 76-5-106,
36 76-5-107, and 76-5-108;

37 (b) any misdemeanor property destruction offense under Sections 76-6-102, 76-6-104, and
38 76-8-714, and Subsection 76-6-106 (1)(b);

39 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

40 (d) any misdemeanor theft offense under Section 76-6-412;

41 (e) any offense of obstructing government operations under Sections 76-8-301, 76-8-302,
42 76-8-304, 76-8-305, 76-8-307, 76-8-308, and 76-8-313 and Subsections 76-8-306 (1)(a) through

43 (f) [~~and 76-8-310 (1)~~];

44 (f) any offense of interfering or intending to interfere with activities of colleges and
45 universities under Title 76, Chapter 8, Part 7;

46 (g) any misdemeanor offense against public order and decency as defined in Title 76,
47 Chapter 9, Part 1;

48 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2;

49 (i) any cruelty to animals offense under Section 76-9-301; and

50 (j) any weapons offense under Section 76-10-506.

51 Section 2. Section **76-5-102.4** is amended to read:

52 **76-5-102.4. Assault against peace officer -- Penalty.**

53 (1) Any person who assaults a peace officer, with knowledge that he is a peace officer, and
54 when the peace officer is acting within the scope of his authority as a peace officer, is guilty of a
55 [~~class A misdemeanor~~] third degree felony.

56 (2) A person who violates this section shall serve, in jail or another correctional facility,
57 a minimum of:

58 (a) 90 consecutive days for a second offense; and

59 (b) 180 consecutive days for each subsequent offense.
60 (3) The court may suspend the imposition or execution of the sentence required under
61 Subsection (2) if the court finds that the interests of justice would be best served and makes
62 specific findings concerning the disposition in writing or on the record.

Legislative Review Note
as of 2-5-99 3:48 PM

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

Office of Legislative Research and General Counsel