

28 (b) If the statement is in writing, it shall be filed with the court and served on the opposing
29 party at least four days prior to the time set for sentencing.

30 (3) (a) In determining the weight to give the aggravating circumstance under Subsection
31 (1) the court may consider the record in the case, the presentence report, other reports, including
32 reports received under Section 76-3-404 regarding diagnostic evaluations, statements in
33 aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence
34 introduced at the sentencing hearing, except as provided under Subsection (3)(b).

35 (b) The court may not consider:

36 (i) evidence demonstrating the defendant's mere abstract beliefs;

37 (ii) evidence of the defendant's mere membership in an organization; or

38 (iii) any evidence of the defendant's expressions or associations, unless the evidence is
39 specifically related to the offense for which the defendant was convicted.

40 (4) (a) The court shall set forth on the record the facts supporting and reasons for the
41 weight the court gives the aggravating circumstance under Subsection (1) in imposing sentence
42 on the defendant.

43 (b) In determining a just sentence, the court shall consider sentencing guidelines regarding
44 aggravating and mitigating circumstances promulgated by the Sentencing Commission.

45 (5) As part of any sentence imposed in a case that includes an aggravating circumstance
46 under Subsection (1), the court may:

47 (a) in consultation with the organization or entity for whom the defendant is to provide the
48 compensatory service, require the defendant to work in a compensatory-service program for not
49 fewer than 24 hours; and

50 (b) participate in a diversity training program designed to provide awareness training and
51 educational services for defendants who commit crimes under the circumstances described in
52 Subsection (1).

53 **Section 2. Repealer.**

54 This act repeals:

55 **Section 76-3-203.3, Penalty for hate crimes -- Civil rights violation.**

Legislative Review Note

as of 1-29-02 4:42 PM

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

Office of Legislative Research and General Counsel