

1 **CRIMINAL CODE AMENDMENTS**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Alicia L. Suazo**

5 **This act modifies the Criminal Code by repealing the current provision regarding crimes**
6 **committed to intimidate or terrorize, and by enacting a section providing an enhanced**
7 **penalty by one degree for crimes against a person or property that a defendant commits**
8 **because of specified characteristics of an individual or group of persons. The act also**
9 **provides procedures for charging an offense under the section.**

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

11 ENACTS:

12 **76-3-203.4**, Utah Code Annotated 1953

13 REPEALS:

14 **76-3-203.3**, as last amended by Chapter 307, Laws of Utah 2001

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

16 Section 1. Section **76-3-203.4** is enacted to read:

17 **76-3-203.4. Penalty enhancement for crimes defendant commits because of**
18 **characteristics of a person or group.**

19 (1) If a defendant selects the person or property against which he commits any criminal
20 offense because of the actual or perceived race, color, disability, religion, national origin, ancestry,
21 age, gender, or sexual preference of any individual or group of persons, the defendant is subject
22 to an enhanced penalty under Subsection (3).

23 (2) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
24 be subscribed upon the information or indictment notice that the defendant is subject to the
25 enhanced penalties provided under Subsection (3).

26 (b) The notice under Subsection (2)(a) shall be in a clause separate from and in addition
27 to the primary offense charged.



28 (3) If the trier of fact determines beyond a reasonable doubt that the defendant committed
29 an offense under Subsection (1), the enhanced penalty for a:

30 (a) class B misdemeanor is a class A misdemeanor;

31 (b) class A misdemeanor is a third degree felony;

32 (c) third degree felony is a second degree felony;

33 (d) second degree felony is a first degree felony; or

34 (e) first degree felony remains the penalty for a first degree felony, except:

35 (i) imposition or execution of the sentence may not be suspended unless the court finds
36 the interests of justice would be best served by the suspension and the court states the specific
37 circumstances justifying the suspension on the record; and

38 (ii) the board of Pardons and Parole shall consider the findings by the trier of fact under
39 this section that the defendant committed the offense against a person primarily because of the
40 defendant's bias or prejudice against a group identified by race, color, disability, religion, national
41 origin, ancestry, age, gender, or sexual preference as an aggravating factor in determining the
42 length of incarceration.

43 Section 2. **Repealer.**

44 This act repeals:

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

Legislative Review Note
as of 1-22-02 6:48 PM

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

Office of Legislative Research and General Counsel