

1 **CRIMINAL PENALTY AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David Litvack**

5 Senate Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Criminal Code regarding crimes motivated by bias, by providing  
10 that courts and the Board of Pardons and Parole consider if the offender's act against a  
11 victim includes specified aggravating factors that pose harm to the community.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ repeals the current criminal provision that enhances penalties for certain crimes that  
15 are committed to threaten or intimidate;

16 ▶ defines "aggravating factor" as an offender's selection of a victim based on the  
17 victim's membership or perceived membership in a group, and that this selection  
18 results in public harm;

19 ▶ provides that sentencing courts and the Board of Pardons and Parole shall consider  
20 these aggravating factors; and

21 ▶ provides that the courts and the Board of Pardons and Parole shall also consider if  
22 the current law already increases the penalty for the offense if defendant selects a  
23 member of a group, such as assault offenses against law enforcement officers or  
24 school employees.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **76-3-203.4**, Utah Code Annotated 1953

32 REPEALS:

33 **76-3-203.3**, as last amended by Chapter 274, Laws of Utah 2004



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

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

37 **76-3-203.4. Crimes motivated by bias -- Aggravating factors.**

38 (1) The sentencing judge or the Board of Pardons and Parole shall consider as an  
39 aggravating factor that the defendant, in committing the offense, selected the victim or property  
40 primarily because the victim or the owner or holder of the property was actually or was  
41 perceived by the defendant to be a member of a group.

42 (2) In determining the weight to be given to the aggravating factor in Subsection (1),  
43 the judge or the board shall consider:

44 (a) the public harm resulting from the selection of a victim from that group, including  
45 the degree to which:

46 (i) the selection is likely to:

47 (A) cause emotional or other harm to the victim or other members of the group; or

48 (B) incite community unrest; or

49 (ii) the group is or has been the target of animus, discrimination, legal disabilities, or  
50 hate-based crimes; and

51 (b) whether the penalty for the defendant's selection of a member of the group as a  
52 victim is already increased by other existing provisions of law.

53 Section 2. **Repealer.**

54 This bill repeals:

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

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**Legislative Review Note**

as of 1-6-06 12:22 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Criminal Penalty Amendments***19-Jan-06***Bill Number: HB0090***12:29 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact to law-abiding citizens.

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**Office of the Legislative Fiscal Analyst**