

Reforming Utah's Gang and Group Enhancement Statute



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Utah's Gang/Group Enhancement Statute



- Utah Code 76-3-203.1 allows for enhancement when offense committed in association with:
 - Criminal street gangs
 - or
 - In concert with two or more persons

Why reform is being considered

Utah Protesters Face Charges With Potential Life Sentence



Utah protesters who splashed red paint and broke windows could face up to life enhancement

Salt Lake City Protesters Face Life in Prison over Broken Windows, Red Paint

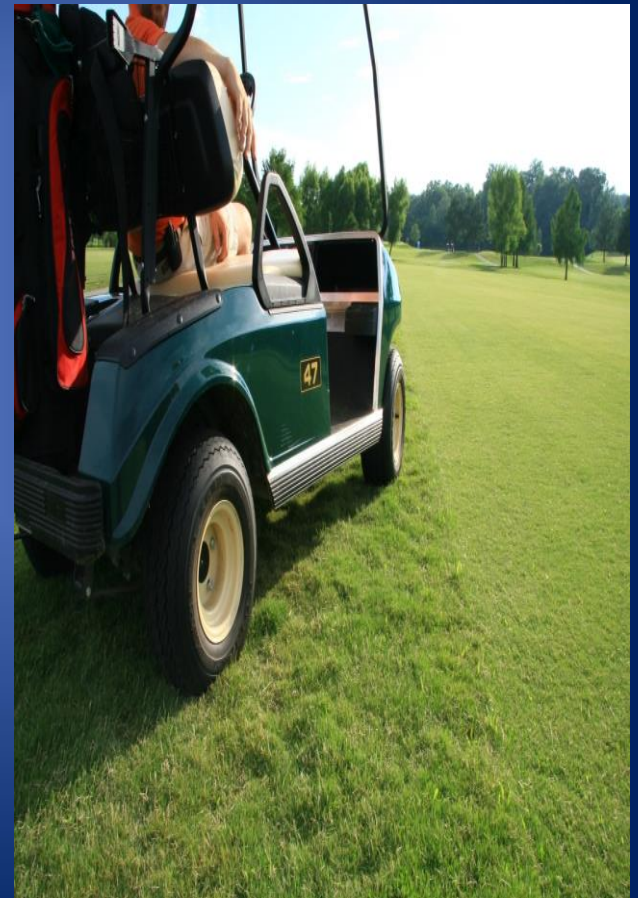


Scenario #1:

- July 9, 2020 – Protests occur at Salt Lake County District Attorney's Office which results in damage to the building
- Several protestors are charged with 2nd degree felonies which are enhanced to 1st degree felonies under gang/group statute

Scenario #2:

- Group of 17 and 18 year olds take motorized cart from Red Butte Gardens, take turns riding it, and cause damage
- Kids are charged with 3rd degree felonies which are enhanced to 2nd degree felonies under gang/group statute

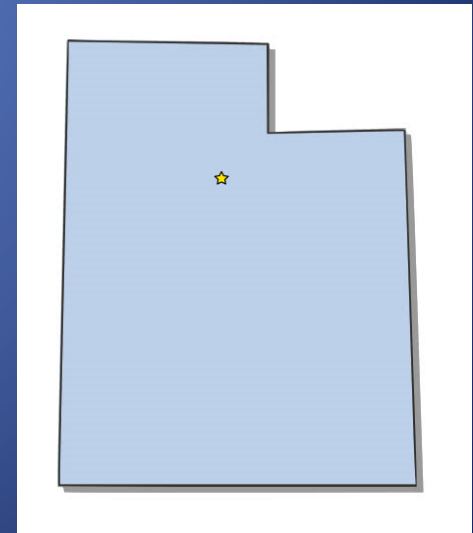


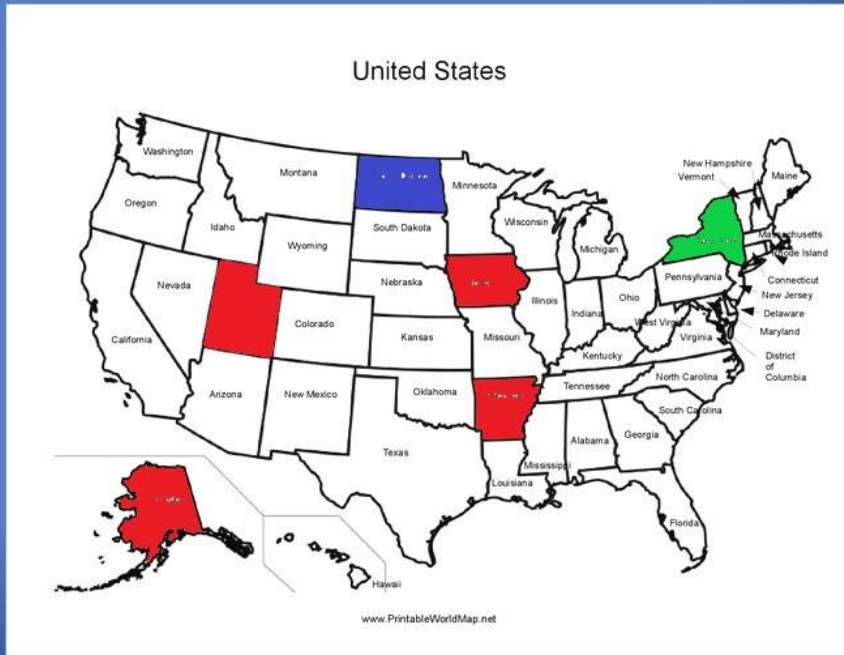


Does an enhancement based merely on two individuals involvement serve a public interest, protect public safety, and result in a more just outcome?

How does Utah compare?

- All 50 states have:
 - Conspiracy liability
 - Party liability
- 30 states have similar statutes enhancing “gang” activity





- Only 4 states have “group” enhancement language comparable to Utah
 - New York allows for enhancement for group assault

What the legislation does

- Increase number of individuals required for an offense to be enhanced
- Modifies the enhancement from a charging enhancement to a sentencing enhancement
- Modifies the offenses subject to enhancement
- Modifies potential enhancement for certain offenses

Offense Amendments

- Criminal mischief and graffiti
 - Enhancement capped at 3rd degree felony
- Non-violent, non-person offenses
 - Enhancement capped at 2nd degree felony
- Violent person offenses
 - 1st degree felony enhancement allowed
- Elimination of numerous offenses