

26 (vi) the offices of private physicians or dentists, whether for individual or group practice;
27 and

28 (vii) any other health care facility which provides essentially the same services as any of
29 the facilities, clinics, or agencies listed in this Subsection (1)(a).

30 (b) "Health care provider" has the same definition as provided in Section 26-33a-102.

31 (c) "Mental or physical disability" means the victim has:

32 (i) a condition of physical or mental incapacitation due to a developmental disability,
33 organic brain damage, or mental illness; and

34 (ii) one or more physical or mental limitations that restrict the victim's ability to perform
35 the normal activities of daily living.

36 (d) "Religious facility" means a building, including a church, synagogue, mosque, temple,
37 sweat lodge, or other building:

38 (i) that is set apart primarily for the purpose of worship or religious instruction;

39 (ii) in which religious services are held;

40 (iii) with which clergy is associated; and

41 (vi) the main body of which is kept for that use and not put to any other use inconsistent
42 with its primary purpose.

43 (e) "Sexual orientation" means consensual homosexuality or heterosexuality.

44 (2) The bureau shall:

45 [(1)] (a) procure and file information relating to identification and activities of persons
46 who:

47 [(a)] (i) are fugitives from justice;

48 [(b)] (ii) are wanted or missing;

49 [(c)] (iii) have been arrested for or convicted of a crime under the laws of any state or
50 nation; and

51 [(d)] (iv) are believed to be involved in racketeering, organized crime, or a dangerous
52 offense;

53 [(2)] (b) establish a statewide uniform crime reporting system that shall include:

54 [(a)] (i) statistics concerning general categories of criminal activities;

55 [(b)] (ii) statistics concerning crimes that exhibit evidence of prejudice based on:

56 (A) race, religion, ancestry, national origin, ethnicity, [or] color, sexual orientation, gender,

57 mental or physical disability, activity or identification as a health care provider;
58 (B) a building being a religious facility or a health care facility; or
59 (C) other categories that the division finds appropriate; and
60 [(e)] (iii) other statistics as required by the Federal Bureau of Investigation;
61 [(3)] (c) make a complete and systematic record and index of the information obtained
62 under this part;
63 [(4)] (d) subject to the restrictions in this part, establish policy concerning the use and
64 dissemination of data obtained under this part;
65 [(5)] (e) publish an annual report, including a summary of the data acquired under
66 Subsection (2)(b), concerning the extent, fluctuation, distribution, and nature of crime in Utah;
67 [(6)] (f) establish a statewide central register for the identification and location of missing
68 persons, which may include:
69 [(a)] (i) identifying data including fingerprints of each missing person;
70 [(b)] (ii) identifying data of any missing person who is reported as missing to a law
71 enforcement agency having jurisdiction;
72 [(c)] (iii) dates and circumstances of any persons requesting or receiving information from
73 the register; and
74 [(d)] (iv) any other information, including blood types and photographs found necessary
75 in furthering the purposes of this part;
76 [(7)] (g) publish a quarterly directory of missing persons for distribution to persons or
77 entities likely to be instrumental in the identification and location of missing persons;
78 [(8)] (h) list the name of every missing person with the appropriate nationally maintained
79 missing persons lists;
80 [(9)] (i) establish and operate a 24-hour communication network for reports of missing
81 persons and reports of sightings of missing persons;
82 [(10)] (j) coordinate with the National Center for Missing and Exploited Children and
83 other agencies to facilitate the identification and location of missing persons and the identification
84 of unidentified persons and bodies;
85 [(11)] (k) receive information regarding missing persons, as provided in Sections 26-2-27
86 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section
87 41-1a-1401;

88 ~~[(12)]~~ (l) adopt systems of identification, including the fingerprint system, to be used by
89 the division to facilitate law enforcement; and

90 ~~[(13)]~~ (m) assign a distinguishing number or mark of identification to any pistol or
91 revolver, as provided in Section 76-10-520.

92 (3) Subsection (2)(b)(ii) does not create a cause of action or a right to bring an action, and
93 does not limit any existing cause of action or right to bring an action.

94 Section 2. Section **76-3-203.3** is amended to read:

95 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

96 (1) As used in this section:

97 ~~[(1) "Primary offense" means those offenses provided in Subsection (5).]~~

98 (a) "Health care facility" includes:

99 (i) general acute hospitals, psychiatric hospitals, and specialty hospitals;

100 (ii) home health agencies, hospices, skilled nursing facilities, intermediate care facilities,
101 intermediate care facilities for the mentally retarded; and residential health care or assisted living
102 facilities;

103 (iii) maternity homes or birthing centers, free standing ambulatory surgical facilities, small
104 health care facilities, and abortion clinics;

105 (iv) facilities owned or operated by health maintenance organizations;

106 (v) renal disease treatment facilities, including free standing hemodialysis units;

107 (vi) the offices of private physicians or dentists, whether for individual or group practice;

108 and

109 (vii) any other health care facility which provides essentially the same services as any of
110 the facilities, clinics, or agencies listed in this Subsection (1)(a).

111 (b) "Health care provider" has the same definition as provided in Section 26-33a-102.

112 (c) "Mental or physical disability" means the victim has:

113 (i) a condition of physical or mental incapacitation due to a developmental disability,
114 organic brain damage, or mental illness; and

115 (ii) one or more physical or mental limitations that restrict the victim's ability to perform
116 the normal activities of daily living.

117 (d) "Sexual orientation" means consensual homosexuality or heterosexuality.

118 (2) (a) A person is guilty of a third degree felony who commits any [primary] misdemeanor

119 ~~offense [with the intent to intimidate or terrorize another person or with reason to believe that his~~
120 ~~action would intimidate or terrorize that person is guilty of a third degree felony.] listed in~~
121 Subsection (5) because of the actual or perceived:

122 (i) race, religion, national origin, color, gender, sexual orientation, ethnicity, or mental or
123 physical disability of any person;

124 (ii) actions, employment, or representations of a person as a health care provider;

125 (iii) function of a building as a health care facility or as a religious facility; or

126 (iv) role of any person as a volunteer, employee, client, or patient of a health care facility
127 or as a volunteer, employee, or member of any religion.

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

132 (b) This Subsection (2) does not create any separate offense but provides an enhanced
133 penalty for the primary offense.

134 (c) The enhanced penalties under this Subsection (2) apply if the trier of fact finds beyond
135 a reasonable doubt that the defendant committed the offense because of the actual or perceived
136 race, religion, national origin, color, gender, sexual orientation, ethnicity, or mental or physical
137 disability of any person.

138 (3) (a) A person is subject to an enhanced penalty for an offense as provided in Subsection
139 (3)(b) if the person commits or attempts to commit a felony because of the actual or perceived:

140 (i) race, religion, national origin, color, gender, sexual orientation, ethnicity, or mental or
141 physical disability of any person;

142 (ii) actions, employment, or representations of a person as a health care provider;

143 (iii) function of a building as a health care facility or as a religious facility; or

144 (iv) role of any person as a volunteer, employee, or client or patient of a health care facility
145 or as a volunteer, employee, or member of any religion.

146 (b) (i) If the offense is a third degree felony, the convicted person shall be sentenced to an
147 enhanced minimum term of between one and three years in prison.

148 (ii) If the offense is a second degree felony, the convicted person shall be sentenced to an
149 enhanced minimum term of between two and four years in prison.

150 (iii) If the offense is a first degree felony, the convicted person shall be sentenced to an
151 enhanced minimum term of between five and eight years in prison.

152 (iv) If the offense is a capital offense for which a life sentence is imposed, the convicted
153 person shall be sentenced to a minimum term of 20 years in prison.

154 (c) The sentencing judge rather than the jury shall decide whether to impose the enhanced
155 penalty under this Subsection (3). The imposition of the penalty is contingent upon a finding by
156 the sentencing judge by a preponderance of the evidence that this Subsection (3) is applicable. In
157 conjunction with sentencing the court shall enter written findings of fact concerning the
158 applicability of this section.

159 (d) The court may suspend the imposition or execution of the enhanced sentence required
160 under this Subsection (3) if the court:

161 (i) finds that the interests of justice would be best served; and

162 (ii) states the specific circumstances justifying the disposition on the record.

163 (e) Enhanced penalties under this Subsection (3) do not apply if a greater enhanced penalty
164 is applicable to the offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

165 (4) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
166 notice on the complaint in misdemeanor cases or on the information or indictment in felony cases
167 that the defendant is subject to:

168 (i) the enhancement of a misdemeanor to a third degree felony [provided] under [this
169 section.] Subsection (2); or

170 (ii) the enhanced penalty for a felony under Subsection (3).

171 (b) The notice shall be in a clause separate from and in addition to the substantive offense
172 charged.

173 ~~[(b)]~~ (c) If the notice is not included initially, the court may subsequently allow the
174 prosecutor to amend the charging document to include the notice if the court finds:

175 (i) that the amended charging documents, including any statement of probable cause,
176 provide notice [that the defendant is subject to a third degree felony provided under this section]
177 as required in Subsection (4)(a); and

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

179 (5) ~~[Primary offenses]~~ Offenses referred to in Subsection (2) are the misdemeanor offenses
180 for:

- 181 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107,
182 and 76-5-108;
- 183 (b) any misdemeanor property destruction offense under Sections 76-6-102, 76-6-104, and
184 76-8-714, and Subsection 76-6-106(1)(b);
- 185 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;
- 186 (d) any misdemeanor theft offense under Section 76-6-412;
- 187 (e) any offense of obstructing government operations under Sections 76-8-301, 76-8-302,
188 76-8-304, 76-8-305, 76-8-307, 76-8-308, and 76-8-313 and Subsections 76-8-306(1)(a) through
189 (f) [~~and 76-8-310(1)~~];
- 190 (f) any offense of interfering or intending to interfere with activities of colleges and
191 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;
- 192 (g) any misdemeanor offense against public order and decency as defined in Title 76,
193 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;
- 194 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Telephone Abuse;
- 195 (i) any cruelty to animals offense under Section 76-9-301; and
- 196 (j) any weapons offense under Section 76-10-506.
- 197 (6) Intent under this section may not be proven solely by the defendant's abstract beliefs
198 or his membership in an organization.