

HATE CRIMES AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Pete Suazo

This act modifies the Criminal Code to revise the procedures and criminal penalties for commission of a crime motivated by actual bias or prejudice.

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

REPEALS AND REENACTS:

76-3-203.3, as enacted by Chapter 102, Laws of Utah 1992

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

Section 1. Section **76-3-203.3** is repealed and reenacted to read:

76-3-203.3. Penalty for crimes motivated by § ACTUAL § bias or prejudice.

(1) A person who, in committing any offense, selects the victim primarily because of §

ACTUAL § bias

or prejudice against a group § , AS DEMONSTRATED BY THE DEFENDANT'S ACTIONS AT THE TIME THE

OFFENSE WAS COMMITTED, § is subject to an enhanced penalty as provided under Subsection (3).

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

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

(3) If the trier of fact finds beyond a reasonable doubt that the defendant, in committing an offense, selected the victim primarily because of § ACTUAL § bias or prejudice against a group,

§ AS DEMONSTRATED BY THE DEFENDANT'S ACTIONS AT THE TIME THE OFFENSE WAS

COMMITTED, § the enhanced

penalty for a:

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

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

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

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

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



28 (i) imposition or execution of the sentence may not be suspended unless the court finds
29 the interests of justice would be best served and states the specific circumstances justifying the
30 disposition on the record; and

31 (ii) the Board of Pardons and Parole shall consider the finding by the trier of fact that the
32 convicted person selected the victim primarily because of § ACTUAL § bias or prejudice against a
32a group § , AS DEMONSTRATED BY THE DEFENDANT'S ACTIONS AT THE TIME THE OFFENSE WAS
32b COMMITTED, § as an
33 aggravating factor in determining the length of incarceration.

Legislative Review Note
as of 8-25-00 8:46 AM

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

Office of Legislative Research and General Counsel