1	HATE CRIMES AMENDMENTS				
2	2003 GENERAL SESSION				
3	STATE OF UTAH				
4	Sponsor: David Litvack				
5	This act modifies the Criminal Code by providing for enhanced penalties due to the				
6	defendant's selection of the victim because of the defendant's bias or prejudice toward a				
7	group. This act also defines group. This act provides that the trier of fact may not base a				
8	finding that the defendant acted because of a bias or prejudice solely on evidence of a				
9	defendant's mere beliefs, associations, or expressions. This act allows the court to impose				
10	alternative sentencing provisions in cases subject to the enhanced penalties. This act				
11	repeals the current state "hate crimes" statute.				
12	This act affects sections of Utah Code Annotated 1953 as follows:				
13	ENACTS:				
14	76-3-203.4, Utah Code Annotated 1953				
15	REPEALS:				
16	76-3-203.3, as last amended by Chapter 166, Laws of Utah 2002				
17	Be it enacted by the Legislature of the state of Utah:				
18	Section 1. Section 76-3-203.4 is enacted to read:				
19	76-3-203.4. Penalty for crimes motivated by bias or prejudice.				
20	(1) If the trier of fact finds beyond a reasonable doubt that the defendant, in committing				
21	an offense, selected the victim or the property primarily because of actual bias or prejudice				
22	against a group, as demonstrated by the defendant's actions related to the commission of the				
23	offense, the enhanced penalty for a:				
24	(a) class B misdemeanor is a class A misdemeanor;				
25	(b) class A misdemeanor is a third degree felony;				
26	(c) third degree felony is a second degree felony;				
27	(d) second degree felony is a first degree felony; or				

H.B. 85

28	(e) first degree felony remains the penalty for a first degree felony, except:
29	(i) imposition or execution of the sentence may not be suspended unless the court finds
30	the interests of justice would be best served and states the specific circumstances justifying the
31	disposition on the record; and
32	(ii) the Board of Pardons and Parole shall consider the finding by the trier of fact that
33	the convicted person selected the victim primarily because of actual bias or prejudice against a
34	group, as demonstrated by the defendant's actions related to the commission of the offense, an
35	aggravating factor in determining the length of incarceration.
36	(2) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall cause
37	to be subscribed upon the information or indictment notice that it is alleged that the defendant
38	is subject to the enhanced penalties provided in Subsection (1).
39	(b) The notice under Subsection (2)(a) shall be in a clause separate from and in
40	addition to the primary offense charged.
41	(3) The trier of fact may not base a finding that the defendant acted because of actual
42	bias or prejudice under Subsection (1) solely on one or more of the following:
43	(a) evidence demonstrating the defendant's mere abstract beliefs;
44	(b) evidence of the defendant's mere membership in an organization; or
45	(c) any evidence of the defendant's expressions or associations, unless the evidence is
46	specifically related to the offense for which the defendant was convicted.
47	(4) As part of any sentence imposed in a case the court may impose alternative
48	sanctions as the court finds appropriate to the defendant's case.
49	(5) This section does not create any legal status or right not already in existence in
50	statute or common law for a group or a member of a group.
51	(6) As used in this section, "group" means the race, color, disability, religion, sexual
52	orientation, national origin, ancestry, age, or gender of any individual or group of persons.
53	Section 2. Repealer.
54	This act repeals:
55	Section 76-3-203.3, Penalty for hate crimes Civil rights violation.

Legislative Review Note as of 1-15-03 4:54 PM

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

Office of Legislative Research and General Counsel

Fiscal Note	Hate Crimes Amendments	03-Feb-03
Bill Number HB0085		9:58 AM

AMENDED NOTE

State Impact

This bill has an increasing fiscal note starting with \$12,500 General Fund for FY 2004 and increasing each year for the first four years. Expenses should be level at the increased rate after four years. Costs are for additional individuals going to prison and extending the sentences of some who might have gone to prison under current statute.

<u>04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	FY 05 Revenue
\$12,500	\$37,500	\$0	\$0
\$12,500	\$37,500	\$0	\$0
	\$12,500	\$12,500 \$37,500	\$12,500 \$37,500 \$0

Individual and Business Impact

Individuals convicted by the provisions of this bill may spend more time in prison and consequently their income earning potential could be severely limited during the time they are incarcerated.

Office of the Legislative Fiscal Analyst