

**Representative LaVar Christensen** proposes the following substitute bill:

**SENTENCING AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: David Litvack**

**This act modifies the Criminal Code by modifying the title of the current "hate crimes" statute and clarifying the meaning of "intimidate or terrorize" under that statute.**

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

AMENDS:

**76-3-203.3**, as last amended by Chapter 166, Laws of Utah 2002

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

Section 1. Section **76-3-203.3** is amended to read:

**76-3-203.3. Penalty for crimes against individual exercise of civil rights.**

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (5).

(2) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is guilty of a third degree felony.

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

(4) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice on the complaint in misdemeanor cases that the defendant is subject to a third degree felony provided under this section. The notice shall be in a clause separate from and in



26 addition to the substantive offense charged.

27 (b) If the notice is not included initially, the court may subsequently allow the  
28 prosecutor to amend the charging document to include the notice if the court finds:

29 (i) that the amended charging documents, including any statement of probable cause,  
30 provide notice that the defendant is subject to a third degree felony provided under this section;  
31 and

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

34 (5) Primary offenses referred to in Subsection (2) are the misdemeanor offenses for:

35 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,  
36 76-5-107, and 76-5-108;

37 (b) any misdemeanor property destruction offense under Sections 76-6-102, 76-6-104,  
38 and 76-8-714, and Subsection 76-6-106(2)(b);

39 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

40 (d) any misdemeanor theft offense under Section 76-6-412;

41 (e) any offense of obstructing government operations under Sections 76-8-301,  
42 76-8-302, 76-8-304, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313 and Subsection  
43 76-8-310(1);

44 (f) any offense of interfering or intending to interfere with activities of colleges and  
45 universities under Title 76, Chapter 8, Part 7;

46 (g) any misdemeanor offense against public order and decency as defined in Title 76,  
47 Chapter 9, Part 1;

48 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2;

49 (i) any cruelty to animals offense under Section 76-9-301; and

50 (j) any weapons offense under Section 76-10-506.