

Representative Chad E. Bennion proposes the following substitute bill:

CRIMINAL PENALTY AMENDMENT

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David Litvack

LONG TITLE

General Description:

This bill amends the Criminal Code by providing that if the court finds that the defendant selected the victim because of the defendant's bias or prejudice, the court shall consider this fact in sentencing. This bill provides that finding the defendant acted because of a bias or prejudice may not be based solely on evidence of a defendant's mere beliefs, associations, or expressions, except as they are relevant to the offense and admissible under the Utah Rules of Evidence.

Highlighted Provisions:

This bill:

- provides that the court, in imposing a sentence may consider if the defendant selects a victim or property because of a bias or prejudice;
- does not allow the trier of fact to base a finding that the defendant acted because of a bias or prejudice against the victim solely on evidence of a defendant's mere beliefs, expressions, or associations; and
- allows the court to impose alternative sentencing provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



Utah Code Sections Affected:

ENACTS:

76-3-203.4, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **76-3-203.4** is enacted to read:**76-3-203.4. Enhanced penalty for crimes motivated by bias or prejudice.**

(1) (a) If the trier of fact finds beyond a reasonable doubt that the defendant, in committing an offense, selected the victim or the property primarily because of actual bias or prejudice, the court may take this finding into account when sentencing the defendant.

(b) The Board of Pardons and Parole shall consider the finding by the trier of fact that the convicted person selected the victim or the property primarily because of actual bias or prejudice as an aggravating factor in determining the length of incarceration.

(2) The trier of fact may not base a finding that the defendant acted because of actual bias or prejudice under Subsection (1) solely on one or more of the following, unless the evidence is relevant to the offense and admissible under the Utah Rules of Evidence:

(a) evidence demonstrating the defendant's mere abstract beliefs;

(b) evidence of the defendant's mere membership in an organization; or

(c) any evidence of the defendant's expressions or associations.

(3) As part of any sentence imposed in a case under this section, the court may impose alternative sanctions as the court finds appropriate.