

**Representative David Litvack** proposes the following substitute bill:

**CRIMINAL PENALTY AMENDMENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David Litvack**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Criminal Code regarding crimes motivated by bias, by providing that courts and the Board of Pardons and Parole consider if the offender's act against a victim includes specified aggravating factors that pose harm to the community.

**Highlighted Provisions:**

This bill:

- ▶ defines "aggravating factor" as an offender's selection of a victim based on the victim's membership or perceived membership in a group, and that this selection results in public harm;
- ▶ provides that sentencing courts and the Board of Pardons and Parole shall consider these aggravating factors; and
- ▶ provides that the courts and the Board of Pardons and Parole shall also consider if the current law already increases the penalty for the offense if defendant selects a member of a group, such as assault offenses against law enforcement officers or school employees.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **76-3-203.4**, Utah Code Annotated 1953



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

32 Section 1. Section **76-3-203.4** is enacted to read:

33 **76-3-203.4. Crimes motivated by bias -- Aggravating factors.**

34 (1) The sentencing judge or the Board of Pardons and Parole shall consider as an  
35 aggravating factor that the defendant, in committing the offense, selected the victim or property  
36 primarily because the victim or the owner or holder of the property was actually or was  
37 perceived by the defendant to be a member of a group.

38 (2) In determining the weight to be given to the aggravating factor in Subsection (1),  
39 the judge or the board shall consider:

40 (a) the public harm resulting from the selection of a victim from that group, including  
41 the degree to which:

42 (i) the selection is likely to:

43 (A) cause emotional or other harm to the victim or other members of the group; or

44 (B) incite community unrest; or

45 (ii) the group is or has been the target of animus, discrimination, legal disabilities, or  
46 hate-based crimes; and

47 (b) whether the penalty for the defendant's selection of a member of the group as a  
48 victim is already increased by other existing provisions of law.