

Representative LaVar Christensen proposes the following substitute bill:

CRIMINAL PENALTY AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Litvack

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the current bill regarding hate crimes.

Highlighted Provisions:

This bill:

- ▶ includes an offender's act that would 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.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.3, as last amended by Chapter 274, Laws of Utah 2004

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 hate crimes -- Civil rights violation.



26 As used in this section:

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

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

31 (3) "Intimidate or terrorize" means an act which causes the person to fear for his
32 physical safety or damages the property of that person or another. The act must be
33 accompanied with the intent to cause, or have the effect of reasonably causing, a person to fear
34 to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the
35 Constitution or laws of the United States.

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

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

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

45 (ii) that the defendant has not otherwise been substantially prejudiced by the
46 amendment.

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

48 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,
49 76-5-107, and 76-5-108;

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

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

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

54 (e) any offense of obstructing government operations under Sections 76-8-301,
55 76-8-302, 76-8-304, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

56 (f) any offense of interfering or intending to interfere with activities of colleges and

57 universities under Title 76, Chapter 8, Part 7;

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

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

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

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