

VICTIM TARGETING PENALTY ENHANCEMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding sentencing for offenses committed against individuals selected because of certain personal attributes.

Highlighted Provisions:

This bill:

- ▶ provides for an enhanced penalty for a criminal offense if the offender acted against an individual because of the offender's perception of the individual's ancestry, disability, ethnicity, gender, gender identity, national origin, race, religion, or sexual orientation;
- ▶ provides the same enhancement provisions if the criminal offense damages property and the offender acted against the property because of the offender's perception of the property owner's ancestry, disability, ethnicity, gender, gender identity, national origin, race, religion, or sexual orientation; and
- ▶ provides that this bill does not affect an individual's constitutional right of free speech or any other constitutional rights.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 ENACTS:

29 76-3-203.13, Utah Code Annotated 1953



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

32 Section 1. Section **76-3-203.13** is enacted to read:

33 **76-3-203.13. Victim targeting penalty enhancement -- Penalties.**

34 (1) An actor is subject to enhanced penalties under Subsection (2) if the actor
35 intentionally selects:

36 (a) the individual against whom the offense is committed in whole or in part because of
37 the actor's belief or perception regarding an individual's ancestry, disability, ethnicity, gender,
38 gender identity, national origin, race, religion, or sexual orientation, or the association of that
39 individual with another individual or group of individuals who have one or more of these
40 characteristics, regardless of whether the actor's belief or perception is correct; or

41 (b) the property damaged or otherwise affected by the offense in whole or in part
42 because of the actor's belief or perception regarding the ancestry, disability, ethnicity, gender,
43 gender identity, national origin, race, religion, or sexual orientation of the property's owner,
44 possessor, or occupant, or the association or relationship of the property's owner, possessor, or
45 occupant with another individual or group of individuals having one or more of these
46 characteristics, regardless of whether the actor's belief or perception is correct.

47 (2) If the trier of fact finds beyond a reasonable doubt that an actor has committed a
48 crime and selected the individual or property in the manner described in Subsection (1), the
49 actor is subject to an enhanced penalty for the offense as follows:

50 (a) a class C misdemeanor is a class B misdemeanor;

51 (b) a class B misdemeanor is a class A misdemeanor;

52 (c) a class A misdemeanor is a third degree felony;

53 (d) a third degree felony is a third degree felony punishable by an indeterminate term of
54 imprisonment for not less than one year nor more than five years; and

55 (e) a second degree felony is a second degree felony punishable by an indeterminate
56 term of imprisonment for not less than two years nor more than fifteen years.

57 (3) If the trier of fact finds beyond a reasonable doubt that the actor has committed a
58 first degree felony and selected the individual or property in the manner described in

59 Subsection (1), the sentencing judge or the Board of Pardons and Parole shall consider:

60 (a) the actor's selection of the individual or property as an aggravating factor; and

61 (b) whether the penalty for the first degree felony is increased under another provision
62 of state law.

63 (4) This section does not apply to:

64 (a) the actor's selection of a victim because of the victim's gender in the commission of
65 a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

66 (b) a class B or class C misdemeanor enhanced under Subsection [76-3-203.3\(2\)](#).

67 (5) This section does not prevent the court from imposing alternative sanctions as the
68 court finds appropriate.

69 (6) This section does not affect or limit any individual's constitutional right to the
70 lawful expression of free speech or other recognized rights secured by the Utah Constitution or
71 the laws of the state, or by the United States Constitution or the laws of the United States.

72 (7) Subsection (1)(a) does not create a special or protected class for any purpose other
73 than a criminal penalty enhancement under this section.

Legislative Review Note
Office of Legislative Research and General Counsel