

## SB0103S04 compared with SB0103

~~{deleted text}~~ shows text that was in SB0103 but was deleted in SB0103S04.

Inserted text shows text that was not in SB0103 but was inserted into SB0103S04.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Daniel W. Thatcher proposes the following substitute bill:

### VICTIM TARGETING PENALTY ENHANCEMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill ~~{modifies the Utah Criminal Code regarding}~~ enacts provisions relating to sentencing for ~~{offenses}~~ a criminal offense committed against ~~{individuals}~~ a victim who is selected because of certain personal attributes.

##### Highlighted Provisions:

This bill:

▶ defines terms;

▶ provides ~~{for}~~ an enhanced penalty for a criminal offense ~~{if the offender acted}~~ committed 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~~

## SB0103S04 compared with SB0103

~~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;~~ a victim who is selected because of certain personal attributes; and

- ▶ provides that this bill does not affect an individual's constitutional ~~{right of free speech or any other}~~ rights, including an individual's constitutional ~~{rights}~~ right of free speech.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

**76-3-203.14**, Utah Code Annotated 1953

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

Section 1. Section **76-3-203.14** is enacted to read:

#### **76-3-203.14. Victim targeting penalty enhancement -- Penalties.**

(1) As used in this section "personal attribute" means:

(a) age;

(b) ancestry;

(c) disability;

(d) ethnicity;

(e) familial status;

(f) gender identity;

(g) homelessness;

(h) marital status;

(i) matriculation;

(j) national origin;

(k) race;

(l) religion;

## SB0103S04 compared with SB0103

(m) sex;

(n) sexual orientation;

(o) service in the U.S. Armed Forces;

(p) status as an emergency responder, as defined in Section 53-2b-102; or

(q) status as a law enforcement officer, correctional officer, special function officer, or any other peace officer, as defined in Title 53, Chapter 13, Peace Officer Classifications.

~~(1)2~~ ~~{An actor}~~ A defendant is subject to enhanced penalties under Subsection ~~(2)3~~ if the ~~{actor}~~ defendant intentionally selects:

(a) the ~~{individual against whom}~~ victim of the criminal offense ~~{is committed in whole or in part}~~ because of the ~~{actor's}~~ defendant's belief or perception regarding ~~{an individual's ancestry, disability, ethnicity, gender, gender identity, national origin, race, religion, or sexual orientation, or the association of that individual with}~~ the victim's personal attribute or a personal attribute of another individual or group of individuals ~~{who have one or more of these characteristics, regardless of whether the actor's belief or perception is correct}~~ with whom the victim has a relationship; or

(b) the property damaged or otherwise affected by the criminal offense ~~{in whole or in part}~~ because of the ~~{actor's}~~ defendant's belief or perception regarding the ~~{ancestry, disability, ethnicity, gender, gender identity, national origin, race, religion, or sexual orientation of the property's owner}~~ property owner's, {possessor} possessor's, or {occupant, or the association or relationship of the property's owner, possessor, or occupant with} occupant's personal attribute or a personal attribute of another individual or group of individuals ~~{having one or more of these characteristics, regardless of whether the actor's belief or perception is correct.~~

~~(2) with whom the property owner, possessor, or occupant has a relationship.~~

(3) (a) If the trier of fact finds beyond a reasonable doubt that ~~{an actor has}~~ a defendant committed a ~~{crime}~~ criminal offense and selected the ~~{individual}~~ victim or property damaged or otherwise affected by the criminal offense in the manner described in Subsection ~~(1)2~~, the ~~{actor}~~ defendant is subject to an enhanced penalty for the criminal offense as follows:

~~(a)i~~ a class C misdemeanor is a class B misdemeanor;

~~(b)ii~~ a class B misdemeanor is a class A misdemeanor;

## SB0103S04 compared with SB0103

~~(f)(iii)~~ a class A misdemeanor is a third degree felony;

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

~~(f)(v)~~ a second degree felony is a second degree felony punishable by an indeterminate term of imprisonment for not less than two years nor more than ~~fifteen~~ 15 years.

~~(3)(b)~~ If the trier of fact finds beyond a reasonable doubt that ~~the actor has~~ a defendant committed a criminal offense that is a first degree felony and selected the ~~individual~~ victim or property damaged or otherwise affected by the criminal offense in the manner described in Subsection ~~(1)(2)~~, the sentencing judge or the Board of Pardons and Parole shall consider:

~~(a)~~ the ~~actor's~~ defendant's selection of the ~~individual~~ victim or property as an aggravating factor ~~; and~~.

~~(b)4~~ ~~whether~~ This section does not:

(a) apply if:

(i) the penalty for the ~~first degree felony~~ criminal offense is increased or enhanced under another provision of state law;

~~(4) This section does not apply to:~~

~~(a) the actor's selection of a victim because of the victim's gender in the commission of a sexual; or~~

(ii) the personal attribute of the victim or property owner, possessor, or occupant is an element of a criminal offense under ~~Title 76, Chapter 5, Part 4, Sexual Offenses; or~~

~~(b) a class B or class C misdemeanor enhanced under Subsection 76-3-203.3(2).~~

~~(5) This section does not~~ another provision of state law;

(b) prevent the court from imposing alternative sanctions as the court finds appropriate;

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

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

(5) (a) If a final decision of a court of competent jurisdiction holds invalid any

## **SB0103S04 compared with SB0103**

provision of this section or the application of any provision of this section to any person or circumstance, the remaining provisions of this section remain effective without the invalidated provision or application.

(b) The provisions of this section are severable.