

**S.B. 64**

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**CRIMINAL CODE AMENDMENTS**

2

2002 GENERAL SESSION

3

STATE OF UTAH

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**Sponsor: Alicia L. Suazo**

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**This act modifies the Criminal Code by repealing the current provision regarding**

**crimes**

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**committed to intimidate or terrorize, and by enacting a section providing an enhanced**

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**penalty by one degree for crimes against a person or property that a defendant**

**commits**

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**because of specified characteristics of an individual or group of persons. The act also**

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**provides procedures for charging an offense under the section.**

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This act affects sections of Utah Code Annotated 1953 as follows:

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ENACTS:

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

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REPEALS:

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**76-3-203.3**, as last amended by Chapter 307, Laws of Utah 2001

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

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

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**76-3-203.4. Penalty enhancement for crimes defendant commits because of**

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**characteristics of a person or group.**

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*(1) If a defendant selects the person or property against which he commits any criminal offense because of the actual or perceived race, color, disability, religion, national origin,*

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*ancestry,*

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*age, gender, or sexual preference of any individual or group of persons, the defendant is*

*subject*

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*to an enhanced penalty under Subsection (3).*

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*(2) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall cause*

to

24 be subscribed upon the information or indictment notice that the defendant is subject to the  
 25 enhanced penalties provided under Subsection (3).

26 (b) The notice under Subsection (2)(a) shall be in a clause separate from and in addition  
 27 to the primary offense charged.

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28 (3) If the trier of fact determines beyond a reasonable doubt that the defendant  
 committed

29 an offense under Subsection (1), the enhanced penalty for a:

30 (a) class B misdemeanor is a class A misdemeanor;

31 (b) class A misdemeanor is a third degree felony;

32 (c) third degree felony is a second degree felony;

33 (d) second degree felony is a first degree felony; or

34 (e) first degree felony remains the penalty for a first degree felony, except:

35 (i) imposition or execution of the sentence may not be suspended unless the court finds  
 36 the interests of justice would be best served by the suspension and the court states the

specific

37 circumstances justifying the suspension on the record; and

38 (ii) the board of Pardons and Parole shall consider the findings by the trier of fact

under

39 this section that the defendant committed the offense against a person primarily because

of the

40 defendant's bias or prejudice against a group identified by race, color, disability, religion,

national

41 origin, ancestry, age, gender, or sexual preference as an aggravating factor in

determining the

42 length of incarceration.

43 **Section 2. Repealer.**

44 This act repeals:

45 **Section 76-3-203.3, Penalty for hate crimes -- Civil rights violation.**

## Legislative Review Note

as of 1-22-02 6:48 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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