

Senator James M. Evans proposes the following substitute bill:

HATE CRIME AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: James M. Evans

LONG TITLE

General Description:

This bill amends the Criminal Code by providing enhanced penalties if the defendant selects the victim because of the defendant's bias or prejudice. This bill provides that finding the defendant acted because of a bias or prejudice may not be based solely on evidence of a defendant's mere beliefs, associations, or expressions, except as they are relevant to the offense and admissible under the Utah Rules of Evidence.

Highlighted Provisions:

This bill:

- ▶ provides enhanced penalties for offenses if the defendant selects a victim or property because of a bias or prejudice;
- ▶ does not allow the trier of fact to base a finding that the defendant acted because of a bias or prejudice against the victim solely on evidence of a defendant's mere beliefs, expressions, or associations;
- ▶ allows the court to impose alternative sentencing provisions in cases subject to enhanced penalties, and requires the court to state its justifying reasons; and
- ▶ allows the court to provide alternative sanctions in cases subject to the enhanced penalties.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 ENACTS:

30 **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. Enhanced penalty for crimes motivated by bias or prejudice.**

34 (1) If the trier of fact finds beyond a reasonable doubt that the defendant, in committing
35 an offense, selected the victim or the property primarily because of actual bias or prejudice, the
36 enhanced penalty for a:

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

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

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

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

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

42 (i) imposition or execution of the sentence may not be suspended unless the court finds
43 the interests of justice would be best served and states the specific circumstances justifying the
44 disposition on the record; and

45 (ii) the Board of Pardons and Parole shall consider the finding by the trier of fact that
46 the convicted person selected the victim or the property primarily because of actual bias or
47 prejudice, an aggravating factor in determining the length of incarceration.

48 (2) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall cause
49 to be subscribed upon the information or indictment notice that it is alleged that the defendant
50 is subject to the enhanced penalties provided in Subsection (1).

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

53 (3) The trier of fact may not base a finding that the defendant acted because of actual
54 bias or prejudice under Subsection (1) solely on one or more of the following, unless the
55 evidence is relevant to the offense and admissible under the Utah Rules of Evidence:
56

- 57 (a) evidence demonstrating the defendant's mere abstract beliefs;
58 (b) evidence of the defendant's mere membership in an organization; or
59 (c) any evidence of the defendant's expressions or associations.
60 (4) As part of any sentence imposed in a case subject to this section, the court may
61 impose alternative sanctions as the court finds appropriate.