

HATE CRIMES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions regarding hate crimes and criminal identification reporting requirements.

Highlighted Provisions:

This bill:

▶ amends the statewide uniform crime reporting system in the Bureau of Criminal Identification to specify additional criteria to be reported regarding crimes that indicate evidence of prejudice; and

▶ modifies the provisions regarding hate crimes, including the definition of a hate crime and the specified penalties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-202, as last amended by Laws of Utah 2015, Chapter 348

ENACTS:

76-3-203.12, Utah Code Annotated 1953

REPEALS:



28 76-3-203.3, as last amended by Laws of Utah 2007, Chapter 229

29 76-3-203.4, as enacted by Laws of Utah 2006, Chapter 184



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

32 Section 1. Section 53-10-202 is amended to read:

33 **53-10-202. Criminal identification -- Duties of bureau.**

34 The bureau shall:

35 (1) procure and file information relating to identification and activities of persons who:

36 (a) are fugitives from justice;

37 (b) are wanted or missing;

38 (c) have been arrested for or convicted of a crime under the laws of any state or nation;

39 and

40 (d) are believed to be involved in racketeering, organized crime, or a dangerous

41 offense;

42 (2) establish a statewide uniform crime reporting system that shall include:

43 (a) statistics concerning general categories of criminal activities;

44 (b) statistics concerning crimes that exhibit evidence of prejudice based on [~~race,~~
45 ~~religion, ancestry, national origin, ethnicity, or~~ ancestry, disability, ethnicity, gender, gender

46 identity, national origin, race, religion, sexual orientation, and any other categories that the
47 division finds appropriate; and

48 (c) other statistics as required by the Federal Bureau of Investigation;

49 (3) make a complete and systematic record and index of the information obtained
50 under this part;

51 (4) subject to the restrictions in this part, establish policy concerning the use and
52 dissemination of data obtained under this part;

53 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature
54 of crime in Utah;

55 (6) establish a statewide central register for the identification and location of missing
56 persons, which may include:

57 (a) identifying data including fingerprints of each missing person;

58 (b) identifying data of any missing person who is reported as missing to a law

59 enforcement agency having jurisdiction;

60 (c) dates and circumstances of any persons requesting or receiving information from
61 the register; and

62 (d) any other information, including blood types and photographs found necessary in
63 furthering the purposes of this part;

64 (7) publish a quarterly directory of missing persons for distribution to persons or
65 entities likely to be instrumental in the identification and location of missing persons;

66 (8) list the name of every missing person with the appropriate nationally maintained
67 missing persons lists;

68 (9) establish and operate a 24-hour communication network for reports of missing
69 persons and reports of sightings of missing persons;

70 (10) coordinate with the National Center for Missing and Exploited Children and other
71 agencies to facilitate the identification and location of missing persons and the identification of
72 unidentified persons and bodies;

73 (11) receive information regarding missing persons, as provided in Sections 26-2-27
74 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section
75 41-1a-1401;

76 (12) adopt systems of identification, including the fingerprint system, to be used by the
77 division to facilitate law enforcement;

78 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
79 as provided in Section 76-10-520;

80 (14) check certain criminal records databases for information regarding motor vehicle
81 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,
82 and inform the Motor Vehicle Enforcement Division when new entries are made for certain
83 criminal offenses for motor vehicle salespersons in accordance with the requirements of
84 Section 41-3-205.5;

85 (15) check certain criminal records databases for information regarding driving
86 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving
87 privilege applicants and cardholders and inform the federal Immigration and Customs
88 Enforcement Agency of the United States Department of Homeland Security when new entries
89 are made in accordance with the requirements of Section 53-3-205.5.

90 (16) review and approve or disapprove applications for license renewal that meet the
91 requirements for renewal;

92 (17) forward to the board those applications for renewal under Subsection (16) that do
93 not meet the requirements for renewal; and

94 (18) within funds appropriated by the Legislature for the purpose, implement and
95 manage the operation of a firearm safety program, in conjunction with the state suicide
96 prevention coordinator, as described in this section and Section [62A-15-1101](#), including:

97 (a) coordinating with the Department of Health, local mental health and substance
98 abuse authorities, the State Office of Education suicide prevention coordinator, and a
99 representative from a Utah-based nonprofit organization with expertise in the field of firearm
100 use and safety that represents firearm owners, to:

101 (i) produce a firearm safety brochure with information about the safe handling and use
102 of firearms that includes:

103 (A) rules for safe handling, storage, and use of firearms in a home environment;

104 (B) information about at-risk individuals and individuals who are legally prohibited
105 from possessing firearms;

106 (C) information about suicide prevention and awareness; and

107 (D) information about the availability of firearm safety packets;

108 (ii) procure cable-style gun locks for distribution pursuant to this section; and

109 (iii) produce a firearm safety packet that includes both the firearm safety brochure
110 described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection
111 (18)(a)(ii);

112 (b) distributing, free of charge, the firearm safety packet to the following persons, who
113 shall make the firearm safety packet available free of charge:

114 (i) health care providers, including emergency rooms;

115 (ii) mental health practitioners;

116 (iii) other public health suicide prevention organizations;

117 (iv) entities that teach firearm safety courses; and

118 (v) school districts for use in the seminar, described in Section [53A-15-1302](#), for
119 parents of students in the school district;

120 (c) creating and administering a redeemable coupon program described in this section

121 and Section 76-10-526, that may include:

122 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase
123 of a gun safe from a participating federally licensed firearms dealer, as defined in Section
124 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;

125 (ii) advertising the redeemable coupon program to all federally licensed firearms
126 dealers and maintaining a list of dealers who wish to participate in the program;

127 (iii) printing or writing the name of a Utah resident who has filed an application for a
128 concealed firearm permit on the redeemable coupon;

129 (iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents
130 who have filed an application for a concealed firearm permit; and

131 (v) collecting from the participating dealers receipts described in Section 76-10-526
132 and reimbursing the dealers;

133 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
134 making rules that establish procedures for:

135 (i) producing and distributing the firearm safety brochures and packets;

136 (ii) procuring the cable-style gun locks for distribution; and

137 (iii) administering the redeemable coupon program; and

138 (e) reporting to the Law Enforcement and Criminal Justice Interim Committee
139 regarding implementation and success of the firearm safety program:

140 (i) during the 2016 interim, before November 1; and

141 (ii) during the 2018 interim, before June 1.

142 Section 2. Section 76-3-203.12 is enacted to read:

143 **76-3-203.12. Hate crimes -- Definitions -- Penalties.**

144 (1) "Hate crime" means any criminal offense against an individual or property
145 regarding which the actor intentionally selects:

146 (a) the individual against whom the offense is committed in whole or in part because of
147 the actor's belief or perception regarding an individual's ancestry, disability, ethnicity, gender,
148 gender identity, national origin, race, religion, or sexual orientation, or the association of that
149 individual with another individual or group of individuals who have one or more of these
150 characteristics, whether or not the actor's belief or perception was correct; or

151 (b) the property damaged or otherwise affected by the offense in whole or in part

152 because of the actor's belief or perception regarding the ancestry, disability, ethnicity, gender,
153 gender identity, national origin, race, religion, or sexual orientation of the property's owner,
154 possessor, or occupant, or the association or relationship of the property's owner, possessor, or
155 occupant with another individual or group of individuals having one or more of these
156 characteristics, whether or not the actor's belief or perception was correct.

157 (2) (a) If the trier of fact finds beyond a reasonable doubt that an actor is guilty of a
158 hate crime under Subsection (1), the actor is subject to an enhanced penalty for the offense
159 under Subsection (2)(b).

160 (b) The enhanced penalties are:

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

162 (ii) a class B misdemeanor is a class A misdemeanor;

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

164 (iv) a third degree felony is a second degree felony; and

165 (v) a second degree felony is a first degree felony.

166 (3) If the actor commits a first degree felony that is a hate crime under Subsection (1),
167 the sentencing judge or the Board of Pardons and Parole shall consider:

168 (a) the fact that the actor has committed a hate crime as an aggravating factor in
169 deliberations; and

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

172 (4) This section does not prevent the court from imposing alternative sanctions as the
173 court finds appropriate.

174 (5) The prosecuting attorney, or the grand jury if an indictment is returned, shall cause
175 to be subscribed upon the information or indictment notice that the hate crime for which the
176 actor is charged is subject to the enhanced penalties under Subsection (2).

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

180 **Section 3. Repealer.**

181 This bill repeals:

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

Section [76-3-203.4](#), Hate crimes -- Aggravating factors.

Legislative Review Note
Office of Legislative Research and General Counsel