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**SFA****BILL ANALYSIS**

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Senate Bill 995 (as passed by the Senate)  
Sponsor: Senator Michael J. Bouchard  
Committee: Local, Urban and State Affairs

Date Completed: 9-3-98

### **RATIONALE**

When sporting or entertainment events are held at privately owned facilities in the State, such as the Palace Sports Center in Auburn Hills, the owners of these arenas employ security personnel to provide crowd control. The private security personnel often are supplemented by off-duty police officers from local law enforcement agencies who also are hired by the owners of these facilities. Many times patrons at these events refuse to sit in the seats assigned on their tickets, crowd the aisles in violation of local fire codes, leave their seats to congregate around the stage, or exhibit other unruly behavior. While the private security staff attempt to convince patrons to return to their seats and not disturb other patrons, there are instances when a patron refuses to cooperate and security personnel must take physical action to remove the patron from the arena. In some cases, patrons have sued facility owners for the actions taken by security personnel. Some people believe that owners of entertainment and sports arenas should be able to take the necessary actions, including reasonable force if appropriate, to remove persons who are creating a public disturbance.

In addition, shopping malls and shopping centers have become places where children and teenagers go to eat, shop, and meet their friends. While many youngsters are responsible patrons, some owners of malls and shopping centers have experienced incidents of youths' gathering in large groups, roaming the common areas of a mall or shopping center, and intimidating other customers. Some people believe that owners of malls and shopping centers also should be able to use reasonable force when patrons create a disturbance.

### **CONTENT**

**The bill would create "The Public Space Protection Act", which would permit an "entertainment forum" or shopping center that had reasonable grounds to believe that a person had violated the terms of admission or had created a public nuisance to use reasonable force to detain that person, remove that person from a public gathering within the entertainment forum or shopping center, or eject that person from the entertainment forum or shopping center.**

("Entertainment forum" would mean an arena, theater, circus, athletic grounds used for an athletic event or other form of public entertainment, or other place of public entertainment, with a seating capacity of at least 200. "Shopping center" would mean commercial property for which a single lessor had executed two or more leases to persons engaged in the sale of goods or services, and for which there was a common parking area. An entertainment forum or shopping center also would include an owner, lessee, manager, operator, or agent of the entity, or an independent contractor providing security for an entertainment forum or shopping center.)

In exercising the authority granted in the bill, an entertainment forum could determine if it were necessary to do any of the following: eject a person who had violated the terms of his or her license for admission; request the assistance of law enforcement personnel to eject a person who had violated the terms of admission; or escort a person ejected from the entertainment forum to his or her means of transportation or off the entertainment forum's parking area. A shopping center could determine if it were necessary to eject a person creating a public nuisance, to request the assistance of law enforcement personnel to eject a person creating a public nuisance, or to escort

an ejected person to his or her means of transportation or off the shopping center's parking area.

"Reasonable force" would mean the physical force required to remove a person from one place to another, while inflicting the least possible physical harm to the person being removed and preventing physical harm to that person being removed or the person who was removing that person. "Eject" would mean to remove a person from an entertainment forum or shopping center to the outdoors or to an area beyond the entertainment forum's or shopping center's gates or doors.

"Causing a public nuisance" and "violation of a license for admission" would include any of the following acts committed by a person admitted to a shopping center or entertainment forum: a felony or misdemeanor under State law, physically harming or threatening to harm physically the shopping center or entertainment forum or persons admitted to it, a public disturbance, an act in clear disregard of the rights or sensibilities of other persons admitted to the shopping center or entertainment forum, or violating any of the shopping center's or entertainment forum's published or announced rules. In addition, if a person's admission ticket designated a specific seat or seating location, "violation of a license for admission" would include not remaining in his or her designated seat or seating location after the entertainment forum requested that the person remain in his or her designated seat or seating location.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Professional sports teams as well as popular entertainers draw thousands of fans to sports arenas and entertainment facilities across the State. Owners of these facilities hire private security guards and off-duty police officers to provide crowd control at these events. Generally, the private security guards patrol the seating areas and the off-duty police officers serve as backup for the guards, but do not act until a patron breaks the law. According to an attorney representing the Palace, there is no case law or statutory law that empowers crowd control personnel to manage unruly patrons. Consequently, the owners of these private facilities have no legal authority to take any

action against disorderly persons who enter an arena; if they do take action, the owners risk being sued. Despite this situation, security guards have had to handle patrons physically in order to steer them out of the aisles, return them to their seats, or eject them from the arena. As a result, some unruly patrons, who claim that security guards committed assault and battery, have sued arena owners. Owners of these facilities should be able to take the necessary steps, including using reasonable force, to manage or remove persons who are disturbing or jeopardizing other patrons.

### **Supporting Argument**

The bill would apply to shopping centers and malls, which are considered to be sources of entertainment for many young people who often gather at these retail centers to socialize with their peers, as well as to shop. Some general managers of these facilities reportedly have to disband large groups of youths who roam the mall or shopping center, exhibit loud behavior, and intimidate other customers. Because of the growing presence of unsupervised youths, many owners of malls and shopping centers should be able to take the necessary steps, including using reasonable force, to detain or remove a patron, in order to ensure the safety of all shoppers. Senate Bill 494, which passed the Senate, would amend the Elliott-Larsen Civil Rights Act to specify that the Act would not prohibit an enclosed mall or enclosed shopping center from enforcing a rule or policy that prohibited a minor under 16 from being present in the shopping center or mall after 6 p.m. on Friday or Saturday, unless that minor was a parent or accompanied by a parent or another individual 19 years of age or older. Senate Bill 995 would go further to give malls and shopping centers a tool to regulate the behavior of not only youths but also disorderly patrons of any age, in an attempt to provide a safe and pleasant shopping experience for all patrons.

### **Opposing Argument**

Entertainment forums and shopping centers are private property, not publicly owned or operated facilities. Therefore, the owners have the authority to determine how the property should operate, which includes establishing regulations for persons who visit the facilities. While patrons of a sporting or entertainment event usually need tickets, which may contain the terms of admission to the event, there is no similar requirement to enter a shopping center. Furthermore, most entertainment or sporting facilities and shopping centers do not conspicuously post rules and regulations pertaining to a person's conduct while a patron at

the facility. Before an owner of an entertainment forum or shopping center was permitted to use reasonable force to detain or remove a person from the facility, as proposed by the bill, patrons should be notified of this authority and the facility's regulations.

Legislative Analyst: L. Arasim

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.