

BAN RIOTERS FROM CAMPUS

Senate Bill 525 (Substitute H-2) First Analysis (11-4-99)

Sponsor: Sen. Loren Bennett
**House Committee: Criminal Law and
Corrections**
Senate Committee: Judiciary

THE APPARENT PROBLEM:

In March of 1999, after the Michigan State University men's basketball team lost its semi-final match-up in the NCAA men's basketball tournament, students and others on and near the campus of Michigan State University rioted. The riot was heavily covered by the media and much of the activity, ranging from vandalism to violence against police officers to public nudity, was recorded and broadcast on news programs, both locally and nationally. This riot followed by less than a year another riot which had occurred on Munn Field on the MSU campus in May of 1998. The Munn field riot stemmed ostensibly from student protests of then recently enacted university policies aimed at curbing student drinking on campus and before football games.

These are by no means the only cases of such behavior on or around college or university campuses in this state (or, for that matter, other states). However, the fact that these were highly publicized and televised has lead to a greater concern that action should be taken to prevent future episodes of rowdy behavior from becoming a riot. One suggestion, offered in the form of legislation, is to provide a serious punishment – banishment from public college and university campuses– for people who are involved in future incidents of rioting or other such behavior.

THE CONTENT OF THE BILL:

The bill would amend the Code of Criminal Procedure to provide that, as part of a sentence for any offense that a court determined was directly related to a riot, incitement to riot, unlawful assembly, or civil disorder on or within 2,500 feet of the campus of a public community college, public college, or public university, the court could order the convicted person not to enter upon any public community college, public college, or public university campus in this state. If the offense were a felony, the campus ban be for two years after sentencing; if it were a misdemeanor, the ban would be for one year. If the person were also sentenced to a

term of imprisonment, the ban would be in addition to the term of imprisonment and would not begin to run until *after* the person had completed his or her term of imprisonment. If the person were placed in the jurisdiction of the Department of Corrections for the violation, the court would have to request that the parole board make the bill's prohibition a condition of parole.

An order issued under the bill would be in addition to any other penalty or condition of probation imposed for the underlying violation. The bill would not require that any person be convicted of riot, incitement to riot, unlawful assembly, or civil disorder.

An order issued under the bill would not apply to either entering onto the campus of a public community college, college, or university to obtain medical treatment or traveling on a public highway situated on the campus of a public community college, college, or university for purposes of traveling to another location.

In addition to the order of banishment, the court could also order the individual to reimburse the college or university, or the state or a local unit of government for expenses incurred as a result of the riot, incitement to riot, unlawful assembly, or civil disorder. The amount would have to be reasonable and could not exceed the individual's pro rata share of the costs.

The bill would take effect on March 1, 2000.

MCL 769.1g

HOUSE COMMITTEE ACTION:

The House Committee on Criminal Law and Corrections amended the bill to allow for judicial discretion in deciding whether a particular case warranted banishment. The committee also added language allowing for reimbursement and restricted the

banishment provisions to colleges and universities within this state. Finally, the committee also changed the effective date to March 1, 2000.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have no direct cost for state or local government. To the extent that the ban would be a condition of parole or probation, the state or local government would incur costs for sanctioning individuals who violated this condition of parole or probation. On average, a parole violator who is returned to a state prison serves 10 months. Assuming that the average annual cost of incarceration in a state facility is \$22,000, the increased cost for technical rule violator admissions to prison is \$18,300.

In 1997, there were seven people convicted of unlawful assembly, two people convicted of incitement to riot, and no one convicted of rioting. (5-10-99)

ARGUMENTS:

For:

The bill will provide a punishment that fits the crime – attendance at a public college or university is a privilege, and one which should be taken from those who are unable to behave appropriately. People who join in drunken mobs and participate in riots and other such disorder should not be welcome at institutions of higher learning. Non-students who engage in riotous behavior on or near a campus should also be barred from these campuses. One of the problems that has faced colleges and universities when this sort of behavior has occurred in the past is that many of the participants are not students at the university or college where the riot occurred. While a college or university may suspend or expel a student, it has no authority over a non-student. This bill would make certain that these non-students are kept off of the campuses of the state's public colleges and universities.

Obviously the threat of further and harsher penalties is needed to help prevent further outbreaks of this sort. That further penalties are needed is evidenced by the fact that within the space of less than a year, MSU suffered through two outbreaks of mindless destruction. It is hoped that the threat of being barred from any public campus in the state will be enough to make people think twice before throwing in with the mob. Even if the bill does not deter everyone from joining in, the smaller the crowd the less damage will be done and the more easily it can be dispersed.

Against:

It seems unlikely that this bill would have had any effect on the events of last spring, or any other riot, for that matter. It is foolish to assume that riots and mob violence occur because the laws against them are not strict enough. Drunken mobs do not act in a rational or logical fashion and the people who participate do not join because they went through some sort of personal weighing of the consequences of their actions and concluded that this was a good idea. Those individuals who were thinking clearly did not participate and the rest participated without thinking.

Against:

This bill will be nearly impossible to enforce against persons who are not attending a public college or university, and thus, as a deterrent for those persons, the bill will have little or no effect. Obviously, it may work well against those persons who are currently attending a public college or university, but people who are not students will not likely be discovered should they violate the ban. And further, for persons attending a public college or university, it is an extremely harsh sanction, likely resulting in the individual's losing his or her tuition and having a setback of at least one year. In fact, it seems likely that most who are forced to leave for one or two years will not come back to complete their education when the banishment is lifted.

Against:

The bill runs the risk of facing a constitutional challenge. It could be argued that the bill would interfere with a person's first amendment right to freedom of association. Generally, the state must show a 'compelling interest' in order to support an intrusion into the realm of political and associational privacy protected by the First Amendment.

Response:

It could be argued that the limitation in this bill is directed not at speech or association, but at the place where that might occur. Regulation of the time, place, and manner of speech may be made if the regulations are content-neutral, narrowly tailored to serve a significant government interest, and leave open ample alternative channels of expression. However, where the government seeks to regulate speech in a public forum, its ability to limit speech is more limited.

POSITIONS:

Representatives from the Michigan Municipal League, the Michigan Association of Chiefs of Police, and the City of East Lansing testified in support of the bill. (11-2-99)

The Associated Students of Michigan State University (ASMSU) does not support the bill. (11-3-99)

The American Civil Liberties Union opposes the bill. (11-3-99)

A representative from the Presidents Council (the organization that represents the interests of Michigan's 15 public universities) submitted a letter to the Senate Judiciary Committee indicating that it was not taking a collective position supporting or opposing the bill. (5-5-99)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.