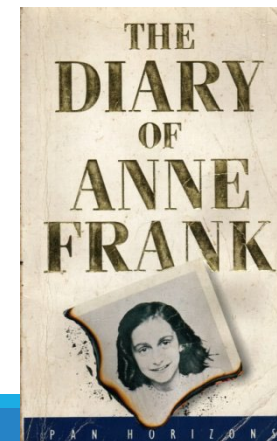
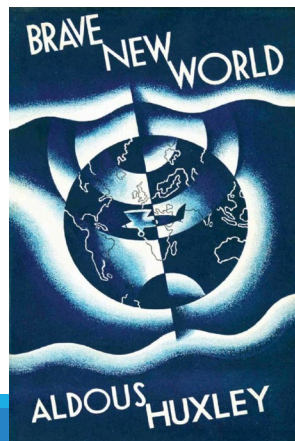


SB 238

Freedom to Read Act

“An Act relating to access to library material; and relating to affirmative defenses to the offenses of enticement of a minor, contributing to the delinquency of a minor, and distribution of indecent material to minors.”



“If you only read the books that everyone else is reading, you can only think what everyone else is thinking”
– Haruki Murakami

Sponsor: Senator Scott Kawasaki
Staff: Jenna Colquhoun

SB 238 Overview

3 Core Objectives

1. Establish a statewide policy for considering library materials
2. Provide protections for librarians, school employees, and museum employees
3. Create a private right of action to empower students, their parents or guardians, authors, booksellers and publishers

Statewide Policy for Library Materials

- SB238 would create a model policy for the curation and reconsideration of library materials in both public and school libraries, and at a minimum must...
 - Recognize the importance of a library as a center for voluntary inquiry and the dissemination of information, and it is a marketplace of ideas
 - Prohibit the removal of library material from a public or school library based on the origin of, background of, or views expressed by the library material or of those contributing to its creation
 - Recognized that library material is provided for the interest, information, and enlightenment of all patrons and should present a wide range of points of view in the collection
 - Promote the free expression of, and free access to, ideas by prohibiting the censorship of library material
 - Establish a procedure, based on professional standards, for a librarian to review the inclusion of library material in a library on an ongoing basis, which must consider...
 - Relevance, condition, availability of duplicates, and continued demand for library materials
 - Specifically for school libraries, the chronological ages and grade levels of students in the school
 - For school libraries, acknowledge that a school librarian is professionally trained to curate and develop a collection for students to access the widest array of developmentally relevant library material created for the chronological ages and grade levels of students in the school

Process for Reconsideration

- Libraries must create a model form and procedure for reconsideration of library material
- Who can make a request?
 - Public Library
 - An individual who has used the services of the library within the last 5 years and resides in its designated service area
 - School Library
 - Teaching staff employed by the school
 - Parents and guardians of a student enrolled at the school
 - Students enrolled at the school
- Requires the library material be considered as a whole
 - No challenges can be made based on selective passages taken out of context
- During the process, the library material is not removed from circulation and remains available to patrons
- Requires one librarian employed by the library to be involved in the reconsideration process
- Allows for an appeals process

Statewide Policy Cont.

- The governing body of a library and a School Board must adopt the model policy unless...
 - The policies they have enacted already correspond with the stipulations in the state policy
- The governing body of a library and a School Board may not remove library material based on
 - Origin, background, or views expressed in the material or those contributing to its creation
- The governing body of a library and a School Board may not based on a disagreement with a library material's depiction of race, gender, sexuality, religious views, or political views prohibit a library from...
 - Acquiring
 - Maintaining
 - Displaying
 - Restrict searchability
 - Require parental permission to check out
- The governing body of a public library, based on objections to sexual content, may not restrict the library from acquiring, maintaining, displaying, restrict searchability, or require parental permission to check out the material unless it...
 - Taken as a whole, speaks to the prurient nature to the community
 - Depicts or describes, in a patently offensive way, sexual conduct defined by 11.66.150
 - As a whole, lacks serious literary, artistic, political, or scientific value
- An employee is immune from civil and criminal liability arising from good faith actions

Protections for Librarians

- Sections 1-3 provide an affirmative defense for employees or officials of a school, museum, or public library under Alaska Statutes...
 - AS 11.41.452 – Enticement of a minor
 - AS 11.51.130 – Contributing to the delinquency of a minor
 - AS 11.61.128 – Distribution of indecent material to minors
- Choose these sections based on a letter from the attorney general sent to school and public libraries on November 16, 2023
 - “no exceptions to any of the laws listed...”
 - Shocked librarians when received
- Does not prevent the indictment of an individual
- Defense can only be used if the employee is “acting in the course of employment”
 - Checking out a library material
 - Discussing a museum exhibit
 - Explicate a passage of a book for its literary merit
- Library materials being checked out and discussed must pass muster with the consideration process and taken as a whole has
 - Literary, artistic, political, or scientific value

Private Right to Action

- Creates 14.56.460 - A government entity that has the authority to purchase, select, curate, and place library material may not...
 - Censor or order another person to censor library material
 - Threaten discipline, impose discipline, or terminate a school or library employee for refusing to censor library materials
- If a government entity violates 14.56.460 by firing or disciplining a school or library employee
 - The employee may bring a civil suit for punitive damages as well as declaratory and injunctive relief
- If a government entity violates 14.56.460 by censoring a library material to a student
 - The student or their parent or guardian can bring a civil suit for declaratory and injunctive relief
 - Damages for a minimum of \$451 and maximum of \$1,451 per censored work
- If a government entity violates 14.56.460 by censoring a library material created or sold by an author, bookseller, or publisher
 - The author, bookseller, or publisher can bring a civil suit for declaratory and injunctive relief
 - Damages for a minimum of \$451 and maximum of \$1,451 per censored work
- The prevailing plaintiff shall be granted reasonable attorney fees and costs
- Funds that were previously allocated to the library can not be used to pay damages or fees

Questions

Thank you for your time

