

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 11, 2004

1:33 p.m.

TAPE (S) 04-4

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gary Stevens
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Kim Elton

COMMITTEE CALENDAR

SENATE BILL NO. 269

"An Act relating to access to the library records of a child by a parent or guardian."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 269

SHORT TITLE: PARENT ACCESS TO CHILD'S LIBRARY RECORDS

SPONSOR(S): SENATOR(S) GREEN

01/16/04	(S)	READ THE FIRST TIME - REFERRALS
01/16/04	(S)	CRA, HES
02/11/04	(S)	CRA AT 1:30 PM FAHRENKAMP 203

WITNESS REGISTER

Senator Lyda Green
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SB 269

Marc Antrim
Juneau, AK 99801

POSITION STATEMENT: Testified on SB 269 as a concerned parent

B.L. Shepherd
Alaska Library Association Representative

P.O. Box 81084
Fairbanks, AK 99708
POSITION STATEMENT: Opposed SB 269

Carol Headman
No address provided
POSITION STATEMENT: Opposed SB 269

Jacqueline Tupou
Staff to Senator Green
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 269 for sponsor

ACTION NARRATIVE

TAPE 04-4, SIDE A

CHAIR BERT STEDMAN called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:33 p.m. Present were Senators Gary Stevens, Wagoner and Chair Stedman. Senator Lincoln arrived shortly after the meeting was convened.

SB 269-PARENT ACCESS TO CHILD'S LIBRARY RECORDS

CHAIR BERT STEDMAN announced SB 269 to be up for consideration. It relates to access to library records of a child by a parent or guardian. He stated he would like to move the bill that day. He asked for a motion to adopt the committee substitute (CS) he had prepared.

SENATOR THOMAS WAGONER made a motion to adopt CSSB 269 \H version as the working document. There was no objection and it was so ordered.

CHAIR STEDMAN asked Senator Green to introduce the bill.

SENATOR LYDA GREEN, sponsor of SB 269 and representative of Senator District G, stepped forward. She decided to introduce the bill after receiving calls from parents that were dismayed to learn that they couldn't get information from the public library regarding their children's accounts. She read the following:

An eight-year-old boy put several books from the children's section of the library on hold. Later in the week, the library called to inform the boy one of

his books was available. The mother, who was taking the message, asked which book, to be able to relay the title to her son. The library informed her that because of privacy laws they would not reveal any information to the mother on the books that her eight year old was checking out.

SENATOR GREEN relayed another instance in which the mayor of Wasilla was unable to access her child's records when she tried to find out when a book was due to be returned. As a result, the books became overdue at which time the library gave her the titles of the books so that they could be returned.

That parent took her son's library card away and now checks his books out on her card. Senator Green said, "She would like him to have his own card but parents have the right to know what books are being checked out so they can teach their children the responsibility of having their own card and getting books returned on time."

Senator Green said those two instances caused her to begin looking at the statute and she learned that public school libraries already have the requirement that they provide the information to the parent.

What was omitted, she suggested, was that public libraries were not included in the definition. SB 269 removes specific reference to "public elementary or secondary school" libraries and changes "minor" child to a child "under 17 years of age." Page 2, subsection (c) amends AS 40.25.140 and says, "This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska, and by a public library nonprofit corporation."

SENATOR LINCOLN noted the zero fiscal note and asked whether libraries might need extra staff if this were to pass.

SENATOR GREEN replied she couldn't imagine they would because the bill doesn't require the library to do anything but respond to parent's questions regarding their children's accounts. She added she was very surprised to find that the statute was interpreted as a privacy issue.

SENATOR LINCOLN asked about any feedback from the Library Association.

SENATOR GREEN advised she received a letter of opposition from the Alaska Library Association.

SENATOR LINCOLN asked for a summary of the opposition.

SENATOR GREEN read the following:

Briefly, my concerns about SB 269 can be outlined as follows:

- The vast majority of public libraries in the state have automated checkout systems. These systems are designed to delete borrower's information upon the return of books. Public libraries don't keep exhaustive lists of books borrowed by library users over time. Thus, the only "records" a library will have will be of books currently checked out.
- Parents and their children can easily obtain information about books that are currently checked out by logging onto their library's web site. A parent simply needs to sit down with a child at their home computer, type in the child's library card, and to obtain a list of the books currently checked out by a child. Or, a parent can encourage their child to simply call their public library, and via the phone, the child can ascertain a list of books currently checked out.
- Parents have other quite effective means of checking on the borrowing habits of their children. As an alternative to Senator Green's sponsor statement, in which she says that "this legislation allows parents to perform their most important role in life, that of being a parent," I might suggest a more direct approach, which I don't believe will need legislative approval - that talking to one's child.
- In short, I feel that this is intrusive and not necessary. Since Ben Franklin established the first public lending library in the United States, we have not had to resort to enacting statutes, which give a parent the right to circumvent an opportunity to communicate to their children. I don't see why we need this legislation now.

CHAIR STEDMAN asked who authored the letter.

SENATOR GREEN replied it was Michael Catoggio, who is the president of the Alaska Library Association, but he was expressing his personal views.

SENATOR LINCOLN made an inaudible statement.

SENATOR GREEN replied, "I believe that the majority of our membership feel the same."

SENATOR LINCOLN disagreed with the statement, but noted that many of the families she represents don't own a computer. In addition, dysfunctional families are found throughout Alaska and it's unlikely that individuals from those family units would ever sit down and have the type of conversation Mr. Catoggio is suggesting. She then encouraged Senator Green to get a letter from the Alaska Library Association representing their views.

SENATOR GREEN pointed to yet another personal opinion letter she received. This was from an adjutant from Mat-Su College stating that as a library employee and mother she didn't "feel your further clarification of an existing piece of legislation is detrimental to our freedoms." She opined that most library associations would view the bill as intrusive. She concluded, "But I don't actually care. I think it's ridiculous for a child to be able to go to a library and the parent not be able to pick up the book if the child is not with them."

SENATOR WAGONER expressed his personal view that he was disturbed by the letter because he couldn't really tell whether the writer was trying to represent the association or himself.

CHAIR STEDMAN opened the meeting to public comments.

MARC ANTRIM, Commissioner of the Department of Corrections announced that he was appearing as a concerned parent. He related a situation that Senator Green touched on that speaks to an unintended consequence.

His daughter received her library card when she was six and used the library extensively. Using the automated system, she would reserve books from home and he would pick her books up on his way home from work. This worked well for years until she was about 13 when the American Library Association (ALA) implemented a nationwide confidentiality

procedure. Because there was no specific access requirement in statute, the ALA's interpretation is that there is no access right. This applies not only to records but also to picking up books, presumably because parents could infer what their children are reading.

He stopped at the library to pick up his daughter's books and was told, "Sorry, you'll have to have your child here to get the books." He left without making an issue, but by the time he got home he was most irritated and decided to call and get further explanation. The librarian spoke with him and then his daughter and they worked out a solution so that his daughter's automated account had a note attached, which allowed him to pick up her books. That worked until she was about 15 when the policy disappeared. After a number of heated conversations, he realized this was a director's policy and the employee at the front counter had no authority to change the policy.

The end result was that his daughter stopped using the library at about age 15. Whereas there may be a debatable concern regarding parents having access to their children's records, the unintended consequence is that it discourages some children from using public resources.

He closed his comments saying this is an outrageous sort of situation. He and his wife have encouraged their daughter to read anything and everything that she found to be of interest. Never, he said, has he discouraged her from reading anything she was comfortable reading. This is one of life's small problems, but it would make a big difference if parents were able to perform a needed service for their children.

SENATOR GARY STEVENS recalled growing up in Oregon and being particularly eager to read banned books such as Catcher in the Rye, and noted that Mr. Antrim's concern isn't associated with wanting to know what his child is reading, rather it's with making it easier for his child to get library books.

MR. ANTRIM agreed completely; he is concerned about the mechanical process of getting books from the library to their home for their daughter to read. He added that the inference that it's not okay for parents to know what their children read would be troubling to some, but that isn't his point.

LYNN SHEPHARD, Alaska Library Association representative gave a number of reasons why the association opposes the proposed changes.

- First, the fundamental difference between school library records and public library records should be recognized before considering amending the law
- Second, potential harm associated with parental access to children's library records should be considered
- Third, proposed age limits aren't well aligned with other age limits pertaining to privacy rights of children

School libraries are developed to support the school curriculum, are age appropriate, and students are expected and required to use them. Children don't expect their school records to be private because parents receive report cards and are able to learn about test scores. However, school librarians have a code of ethics and they respect a student's privacy with regard to materials that they check out.

In contrast, membership in a public library is voluntary and children expect to find more and different kinds of material in the public library. The only reason that parents are required to co-sign on their children's accounts is to acknowledge that they assume financial responsibility for lost or damaged materials.

The second point relates to weighing the benefits of releasing a child's public library record to a parent or guardian against the instances in which there might be potential harm. She pointed out that library records could reveal a child's personal concerns and a parent could use that information to the child's detriment. She questioned what might happen to the child who was seeking information about a sensitive issue that a parent couldn't or wouldn't address. A child might be reluctant to go to an adult, but not to go to the privacy of the library to seek information.

She posed a number of hypothetical situations librarians must take into consideration and insisted that librarians go to great lengths to cultivate trust in patrons. She suggested that trust in public officials could be undermined if confidentiality can't be expected. After all,

other professionals don't have to reveal to parents the types of information they collect.

Furthermore, a child's health and safety might be compromised if information about his or her address or domicile is released. She noted there is nothing in the proposed legislation that would protect a child from that.

With regard to setting the age limit at 18, she pointed to the Family Educational Rights and Privacy Act (FERPA) that confers rights on the student rather than the parent of a dependent student whenever that student is attending a post secondary institution. It's not age based, rather it's based on affiliation.

In 1998, the Children's Online Privacy Protection Act (COPPA) was passed and set the age of "under 13" as the age at which parental consent is required to collect personal information.

Under AS 09.55.590, a 16 year old may petition for emancipation and the rights of adulthood, exclusive of voting and alcohol, are conferred.

CHAIR STEDMAN informed her that the CS lowered the age to under 17.

MS. SHEPHERD said she had the previous version at which time Mr. Baker handed her a copy of the CS.

Finally, she noted that the Library Bill of Rights is the American Library Association's statement regarding policy guidelines and it includes the confidentiality of library records. She read,

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

The Alaska Library Association officially interprets that to mean that, "Librarians and governing bodies should maintain that parents and only parents have the right and

the responsibility to restrict the access of their children and only their children to library resources. Librarians have a professional commitment to ensure that all members of the community they serve have free and equal access to the entire range of library resources and this applies equally to all users, minors as well as adults." In their view, not protecting the confidentiality of a minor's records would be an abridgement of the child's rights.

SENATOR WAGONER asked her to read the last two sentences of her statement.

MS. SHEPHERD did so and added, " Parents or legal guardians who do not want their children to have access to certain library services, materials or facilities should so advise their children." They believe that parental monitoring is the right approach.

SENATOR WAGONER replied that's what the bill does. He agreed that it is the parent's right and the bill allows parental monitoring. He said, "I'm a little confused."

MS. SHEPHERD asserted that parents might monitor what access their child has to library resources, but once they've checked something out there should be no parental access to that record.

SENATOR LINCOLN understood the concerns expressed, which is why she asked whether the Alaska Library Association had a position. She then asked what Ms. Shepherd's role is with the association.

MS. SHEPHERD said she is a professional librarian, a member of the Alaska Library Association and the governmental relations coordinator for the association.

SENATOR LINCOLN asked if the association met and took a position on the legislation.

MS. SHEPHERD replied the association met virtually.

SENATOR LINCOLN admitted she wasn't clear about whether the president of the association was representing himself or the association officially. He signed the letter as president of the Alaska Library Association, but it was unclear whether he was speaking for the group. Since Ms.

Shepherd says she is speaking for the association, she said she'd register her testimony as such.

Next she asked for clarification about how parents can log on the library website and find out which books a child has checked out.

MS. SHEPHERD replied each person's record is password protected so a parent wouldn't have access unless a child revealed his or her password.

SENATOR LINCOLN acknowledged that the direct approach of talking with one's child is best, but she doubted that a child faced with abuse or neglect would try to talk to the parent.

As a parent, she is concerned that parents are unable to pick up library books for their children. Although her children are adults, she wanted to be involved in their activities when they were young. She knew what they were reading, but at that time she had access to that information. If a parent is involved, she suggested, they'll know.

MS. SHEPHERD agreed that involved parents probably would know, but the library wants to protect the child if a parent isn't involved and the family situation is problematic. Stories abound about librarians forming relationships with children in libraries because they are alone and seeking refuge.

SENATOR WAGONER commented that coaches are the greatest counselors in the world and librarians may be the next best. He admitted that he favors the parent's right to know, but made the point that it's not necessary to check a book out in order to get information. They can read the book and then put the book back on the shelf.

SENATOR GARY STEVENS asked about her mention of "under 13" as the age that parental consent is required to collect personal information. When he was raising his children, he encouraged them to read anything they might select after they reached a certain age and level of maturity.

MS. SHEPHERD said the Children's Online Privacy Protection Act is a federal law that was passed in 1998. It relates to collecting personal information online and was particularly

directed at e-commerce because problems associated with individuals making personal contact with children over the Internet had arisen. A company or individual is liable for questioning online anyone that is under 13 without the parent's consent. It doesn't matter how innocent the question may appear.

SENATOR GARY STEVENS asked if she would recommend an age other than 17 for this bill.

MS. SHEPHERD said that would be a compromise. Speaking for herself, she compared meetings between a child and a councilor to a child's dealings with a librarian saying that if children aren't able to trust librarians it would impact the way libraries provide their service.

SENATOR WAGONER said he had difficulty correlating confidentiality regarding library books to his child visiting a councilor.

MS. SHEPHERD replied parents might make a child feel guilty about their book selection. She argued the situations are analogous if you consider that the child might be seeking personal guidance.

SENATOR LINCOLN advised that her questions were more numerous because Ms. Shepherd was representing a group, not because she was trying to put her on the spot. She referred to a previous statement that a child doesn't have to check a book out to garner information on a sensitive topic and asked how many children might actually check out that type of book rather than reading it while they were in the library.

MS. SHEPHERD replied she was interested in the child's privacy rights in the instances in which a child actually would take that step.

CAROL HEADMAN testified as a parent to express support for the opinions of the library association and the existing legislation. With regard to the mechanical difficulty associated with picking up your child's library books, she pointed out that there is frequently the option of posting a permission slip on the child's account.

SIDE B
2:20 pm

SENATOR WAGONER noted that the bill sponsor didn't delve into the issue of a child with a problem who was seeking information. Her focus was to make it possible for parents to pick up and check on their child's books. He remarked the issue could easily be expanded to ridiculous lengths.

MS. HEADMAN agreed and said that's the potential difficulty with expanding the current law beyond the public school. She suggested the simple solution is to find a way around the mechanical difficulty addressed by the first testifier and to leave the age and access issue unchanged.

SENATOR GARY STEVENS asked whether she was a librarian.

MS. HEADMAN replied she is a librarian.

SENATOR GARY STEVENS commented that the bill raises important questions.

SENATOR WAGONER expanded on that point to say that Senator Green gave examples about children that were under 10 years old. He asked the Chair if he would consider holding the bill to have a further discussion with the sponsor regarding the age requirement. He also stated, for the record, that he would be consulting his wife on the subject.

SENATOR GARY STEVENS chimed in to say he was uncomfortable changing the age at this point, but he would request that the bill sponsor look at the issue to look for a compromise.

JACQUELINE TUPOU, staff to Senator Green, replied the CS before the committee has an age compromise. There has been an extensive discussion related to the age issue. Seventeen states have specifically spelled out this right and fourteen of those have established 17 and under as the age limit. Most states simply refer to a minor. After a thorough dialog, Senator Green decided to compromise on 17 and under.

SENATOR LINCOLN concurred with her colleagues regarding holding the bill. She then noted that the version she was reviewing listed the age as 16.

MS. TUPOU agreed and said that's why they feel they have already made a compromise.

CHAIR STEDMAN announced he would hold the bill for further analysis.

CHAIR STEDMAN stated the next meeting would be held on 2/18/04 when they would take up SB 269 and SB 227. With nothing further to come before the committee, he adjourned the meeting at 2:30 pm.