

SB

269

ALASKA STATE LEGISLATURE

Historical File



Interim:

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Wasilla, Alaska 99654
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Session:

State Capitol
Juneau, Alaska 99801-1182
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SENATOR LYDA GREEN SENATE DISTRICT G

Sponsor Statement of Senate Bill 269

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

Existing law states parents can have access to their children's library records at public school libraries, but does not specifically state the parents right to have access to their child's records at public libraries. Senate Bill 269 clarifies that parents do have the right access to their child's records at public libraries as well as at public school libraries.

This legislation addresses practical issues by allowing parents to know what materials their child has checked out in both public libraries and public school libraries. As a result, parents can ensure the materials are returned, fines are paid or replacements are purchased.

Senate Bill 269 clarifies current law to ensure parents can find out what books their children are reading in public libraries as well as public school libraries, thus solving logistical and moral problems encountered by families when children's library records are deemed confidential. This legislation allows parents to perform their most important role in life, that of being a parent.

13 States allow parental access to their children's library records

5 States specifically say "school" library

- Alabama 18 and under
- Alaska
- Louisiana 17 and under
- Ohio 17 and under
- New Mexico 17 and under

8 States specifically say "public" library

- Colorado ("publicly-supported library") age 20 and under
- Florida ("every public library") age 15 and under
- Georgia ("a library") age 17 and under
- South Dakota age 17 and under
- Utah ("publicly-funded") age 17 and under
- West Virginia ("any public library") age 17 and under
- Wyoming ("library") age 17 and under
- Virginia (not in state statute, but per Attorney General opinion.)

14 States specifically provide for students' library records to be private

- Arkansas
- Maryland
- Montana
- Nebraska
- Illinois
- Michigan
- New Jersey
- New York
- North Carolina
- Oklahoma * (but see section 65-1-105(B) -- may allow for disclosure in middle and elementary schools)
- Pennsylvania
- Rhode Island
- South Carolina
- Tennessee

(13)

23 States have no laws specifically addressing children, but provide for public library records to be confidential

4 case law

past records ✓

PO Box 870, Dillingham, AK 99576

Fax

To: Jean Ellis	From: Christine O'Connor
Fax: 465-3175	Pages: 2
Phone: 800-686-3824	Date: 3/29/2004
Re: Parent Access to Child Library Records	CC:

Dear Ms. Ellis,

Thank you for taking the time to speak to me about SB269, Parent Access to Child Library Records, when I was in Juneau recently. I will be testifying by teleconference to the HES Committee March 30. As you suggested I have prepared a written copy of my testimony and am including it with this fax. If you think it is appropriate please share it with the rest of the committee.

If you have any questions, please don't hesitate to contact me. I can be reached at 842-2938h/842-6810w or by email at coconnor@nushtel.net. Thank you.

Sincerely,

Christine O'Connor
Christine O'Connor

**SB 269, Parent Access to Child's Library Records
Christine O'Connor public testimony
March 30, 2004**

My name is Christine O'Connor and I am the librarian at Dillingham Public Library. I've been involved as a volunteer at the library for 8 years and have been the Librarian for nearly 6 years.

Thank you for the opportunity to speak to the committee today regarding Parent Access to Child's Library Records. I believe this bill needs to be amended to protect some of the teens using my library.

Unfortunately not all teens come from caring homes. Instead their parents are indifferent or even harmful to these young adults. These are the teens I'm worried will be harmed by this bill as it is currently written. Teens that lose the privacy of their library use will also be losing the security of knowing they can come to the library for safe access to vital information, information that can be life-changing for them.

Occasionally a teenage girl brings me a stack of books and as I check them out to her I realize they are books about pregnancy. Most times I know the teen and also her parents. And each time I'm saddened to realize that this young girl is without support to deal with the situation she finds herself in. These girls come from sad homes where children are left to virtually raise themselves because of neglect or even abuse.

Dillingham is very small. Teens needing health information have to be willing to be exposed publicly by visiting the hospital or Public Health Center. While the records at these facilities are private, Dillingham is too small to allow a visit to go unnoticed. But the library allows teens to get this information privately. They can then make decisions with a little more information than they would probably otherwise have.

I ask that you please remember these at-risk teens as you consider the Parent Access to Child's Library Records bill. Please maintain the sanctuary of Public Libraries for these kids. Thank you.



STATE of ALASKA

Bethel Legislative Information Office

PO Box 886
Bethel, Alaska 99559
(907) 543-3541
Fax- 543-3542

Written Testimony
for the
Record:

TCN: 4437

Committee: H HESS

Date: 3/30/04

Bill Number(s): SB 269

Subject(s): _____

Please enter my testimony into the record.

Deborah Thompson
Testifier's name (s)

Representing (opt.)

PO Box 368 Kusko Library
Address

543-4571
Phone

Deborah Thompson
Librarian
Member of Alaska Library Association and American Library Association

March 30, 2004

House HESS Committee

Re: Senate Bill 269

While I support the intent of Senate Bill 269, Parent Access to Child Library Records, I feel that the language of the bill is too stringent. The current language of the bill supports actions that not only deny them the privacy given to all citizens in the state of Alaska but may also be harmful to children.

I support the actions of the Alaska Library Association and the language that they have attempted to modify.

Specifically, I agree with them on the following three points, and urge you to consider these points before making a decision on whether or not to pass Bill 269.

1. Child's age: The age of a child in the bill is anyone under 18. This age is high and should be lowered.
2. Library Records: Records such as books that are overdue, lost, stolen or even checked out, while still violating privacy rights, is understandable information to be desired by a parent. Personal information, however, such as name, address, phone number, email, or social security number is information that, given out, may be harmful to a child. A parent, who does not know this information or cannot ask his or her child, should be able to access this information through proper governmental channels, not the Library.
3. Verifying parental identity: How is a library to identify the parent of a child? Many parents and children have different names, and many members of a community share the same last name when they are not directly related. How can a system be provided that assures that information is being given to a parent, and not to a person with a malicious intent toward a child?

I urge you to take these points into consideration and to change the language of this bill.

Thank you,

Deborah Thompson
Librarian
Kuskokwim Consortium Library
PO Box 368, Bethel, AK 99569
(907) 543-4571

Post-It™ brand fax transmittal memo 7671 # of pages > 1

To: Bethel Legislative Office	From: Deborah Thompson
Co.	Co.
Dept.	Phone# 543-4571
Fax# 543-3542	Fax# 543-4503

DATE: 7/27/90
REVISED 9/03

PUBLIC SERVICE

(3.2) Patron Right to Privacy

The law of the State of Alaska regarding the confidentiality of certain library records (AS 09.25.140) reads as follows:

(a.) Except as prohibited in (b) of this section, the names, addresses, or other personal identifying information of people who have used materials made available to the public by a library shall be kept confidential, except upon court order, and are not subject to inspection under AS 90.25.110 or 90.25.120. This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska.

(b.) Records of a public elementary or secondary school library identifying a minor child shall be made available on request to a parent or guardian of that child.

To conform to this law, the following will be adhered to by all library staff with **no exceptions**.

- Patron registration information and information concerning items checked out by any patron shall be considered confidential and will not be given out to anyone, including parents, guardians, spouses and uniformed law enforcement officers, without court order.
- Patrons requesting information about their own cards (most commonly wanting to know what is checked out against it) may be given the information if:
 - a) they present their library card, or
 - b) are able to produce a picture I.D. or
 - c) they can be positively identified by library staff.
- Parents cannot be given the titles of books their children have borrowed, except for the purposes of retrieving overdue materials for which the parent has accepted financial responsibility before the overdue. A child's address and phone number is not to be given out to anyone including a parent or guardian. A parent may be told whether or not their child is registered. If verification of correct name must be done using address, the patron must give address; staff shall not reveal it. This policy defines a child as anyone less than 18 years of age.
- No personal patron information including items checked out will be given over the phone unless staff is confident that confidentiality is upheld.

If at any time you are uncertain about whether to give out information from patron files and records, **do not give the information out. Refer the matter to your supervisor.**

THIS IS THE LAW. Failure to observe these provisions is just cause for disciplinary action up to and including dismissal. There is also the potential of being named as an individual defendant in a civil suit.

The supervisor will explain the provisions of this law to every employee who has access to the information covered by the law before security clearance is given. The employee will sign a statement agreeing to uphold the law and related library confidentiality policy.

(3.2) Patrons Right to Privacy

Page 2 of 2

PARENTS: Parents who object to not being given full access to their child's records have the following options:

1. The child can be instructed by the parent to ask for a printout listing books checked out.
2. The parent may choose to retain possession of the child's card in order to supervise its use.
3. The parent can do all checkout for the child on parent's card.

Staff should be supportive of children having cards, yet also be supportive of parent's need to supervise their reading.

HOLDS/ILL/RENEWALS: When a patron wants to renew a book or pick up a hold or Interlibrary Loan item for someone else they may do so if they have "Implied Consent." We consider implied consent to be when:

1. They know the title of items to be picked up or renewed
2. They have "other" patron's library card
3. They have a signed note giving the name of the person authorized to pick up
4. Authorization given by telephone at the time of pickup/checkout.

Implied consent is acceptable only for renewals, ILLs, and holds.

DATE: 4/22/93
REVISED 9/03

PUBLIC SERVICE

(3.3) Registration

GENERAL

Any permanent resident of the state of Alaska who presents an Alaska driver's license or other acceptable form of identification showing permanent mailing address is eligible to register as a borrower. A person under 18 years of age may have parent or guardian sign a parental responsibility card in lieu of other identification.

A visitor may be offered a TEMPORARY registration with limited borrowing privileges if the visitor has a valid local mailing address and presents adequate picture identification showing permanent out-of-state address. *(Refer to page 8 for a detailed explanation of temporary registration.)*

Local residents who are unable to present acceptable identification or proof of mailing address may receive temporary registration with limited borrowing privileges of two items only.

When any question exists about validity of address, staff will have registrant fill out a self-addressed postcard that the library will mail out. When brought back in, this postcard shall be considered valid proof of address.

A borrower's card issued by any of the Capital City Libraries may be used at any of the other member libraries - DGL, VAL, JUN, SLJ, UAS, ACS & JDHS.

SERVICE GUIDELINES

Registration is a dual responsibility of circulation and reference desk staff. Backup staff, when available, shall be called whenever multiple registrations slow service.

Subject: RE: Parental Access to Library Records

Date: Mon, 23 Feb 2004 15:10:43 -0500

From: FERPA <FERPA@ed.gov>

To: 'Jacqueline Tupou' <Jacqueline_Tupou@Legis.state.ak.us>

This represents an informal response to your question presented in the email below. Under the Family Educational Rights and Privacy Act (FERPA), parents have the right to have access to their children's education records. "Education records" are defined as those records that are directly related to a student and maintained by a school. Thus, a student's school library records would generally be considered "education records" under FERPA. As such, a state law that prohibited parental access to such records would be in conflict with FERPA and, as such, would put at risk the State's U.S. Department of Education funds.

Ellen Campbell

Family Policy Compliance Office

www.ed.gov/offices/OII/fpco

-----Original Message-----

From: Jacqueline Tupou [mailto:Jacqueline_Tupou@Legis.state.ak.us]

Sent: Monday, February 23, 2004 2:50 PM

To: ferpa@ed.gov

Subject: Parental Access to Library Records

I am requesting a response to the following question:

Would legislation prohibiting parental access to public school library records for children under 18 be out of compliance with FERPA?

Thank you in advance for your time and effort in this matter.

Jacqueline F. Tupou
staff for Senator Lyda Green
Alaska State Senate
877-465-6601
or direct dial 907 465-3712



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GENERAL

Family Educational Rights and Privacy Act (FERPA)

- General
- Legislation
- Regulations
- Policy Guidance
- Adult Education
- Civil Rights
- Elementary & Secondary Education
- Grants & Contracts
- Higher Education
- Research & Statistics
- Special Education & Rehabilitative Services
- Vocational Education

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

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Recursos en español

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.



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-HEAD-

Sec. 1232g. Family educational and privacy rights

-STATUTE-

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

Subject: [Fwd: Alaska Library Association and SB 269]

Date: Tue, 10 Feb 2004 07:43:06 -0900

From: Lyda Green <Senator_Lyda_Green@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Jacqueline Tupou <Jacqueline_Tupou@legis.state.ak.us>

Subject: Alaska Library Association and SB 269

Date: Mon, 09 Feb 2004 20:06:50 -0900

From: "Michael Catoggio" <catoggio@hotmail.com>

To: Senator_Lyda_Green@legis.state.ak.us

Senators Green, Ellis, and Representative Gara -

As President of the Alaska Library Association, I would like to respectfully share my thoughts regarding SB 269 (An Act relating to access to the library records of a child by a parent or guardian) with Senator Green as the sponsor of the bill, and with my two representatives.

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

** The vast majority of public libraries in the state have automated check-out systems. These systems are designed to delete borrowers 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.

I believe that the majority of our membership feel the same.

I appreciate this opportunity to express my opinion.

Sincerely,

Michael Catoggio

President, Alaska Library Association

Get some great ideas here for your sweetheart on Valentine's Day - and beyond. <http://special.msn.com/network/celebrateromance.armx>

Subject: Library issue

Date: Wed, 11 Feb 2004 10:52:08 -0900

From: Mary Bixby <MBixby@ci.wasilla.ak.us>

To: "Jacqueline_Tupou@legis.state.ak.us" <Jacqueline_Tupou@legis.state.ak.us>

Mayor Keller got her son, Seth, a library card when he was six or seven years old. She called the Library after he had checked out some books because she knew they must be about due to be returned. She asked the Library for the titles of the books so she and he could locate them but was told that they could not give her that information. The books then became overdue, at which time the Library did give her the titles of the books so they could be returned. The Mayor has since taken away her son's card and all books are checked out on HER card. She would like him to have his own card, but parents have a 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.

Mary Bixby, City of Wasilla

Executive Assistant to

Mayor Dianne M. Keller

ph. 373-9055 fax 373-9096

email: mbixby@ci.wasilla.ak.us

Subject: [Fwd: in support of SB 269]
Date: Tue, 10 Feb 2004 15:16:08 -0900
From: Lyda Green <Senator_Lyda_Green@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Jacqueline Tupou <Jacqueline_Tupou@legis.state.ak.us>

Subject: in support of SB 269
Date: Tue, 10 Feb 2004 14:24:06 -0900
From: "Geary, Gini" <pnvig@matsu.alaska.edu>
To: <Senator_Lyda_Green@legis.state.ak.us>

Dear Ms. Green,

As a constituent of yours, I felt compelled to offer my opinion on your proposed amendments to SB 269. There has been considerable discussion among the library communities of Alaska on this topic and I believe you may receive e-mails from library professionals who are against your wording and take issue with what they deem to be infringement of First Amendment rights and personal civil liberties.

As a library employee and a mother, I do not feel your further clarification of an existing piece of legislation is detrimental to our freedoms. Parents are responsible for and can be held accountable for the actions of their dependent children. They may need to access this information in order to better assess any issues that may need to be addressed with their children. I personally support this effort and thank you for the excellent job you are doing in representing our community.

Thank you,

Gini Geary, M.A.E.

Interim Library Director

Adjunct Professor

Mat-Su College, UAA

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