

SB

269

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*"Life is not measured by the number of breaths we take,
but by the moments that take our breath away."*

--anonymous

1 * Sec. 2. AS 40.25.140 is amended by adding a new subsection to read:

2 (c) Records of a library operated by the state, a municipality, the University of
3 Alaska, or by a public library nonprofit corporation identifying a child under ¹⁶14 years
4 of age and unemancipated shall be made available to a parent or guardian of that child ^{if}

5 (1) the parent or guardian of that child makes a written request for the
6 records;

7 (2) the child provides written consent for the disclosure of the records;

8 or

9 (3) the library discloses only information that is necessary for the
10 reimbursement for or return of lost, stolen, misplaced, or otherwise overdue library
11 materials.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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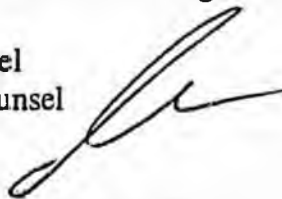
MEMORANDUM

April 22, 2004

SUBJECT: Parent Access to Library Records (CSSB 269(CRA))

TO: Representative Max Gruenberg

FROM: Jean M. Mischel
Legislative Counsel



You have requested an opinion on whether a constitutional or federal Family Educational and Privacy Rights Act (20 U.S.C. 1232g) problem exists with respect to CSSB 269(CRA), which allows a parent to access their child's library records. You further ask whether the age of the child would make a difference to the analysis and whether the attendance of a child at a post-secondary educational institution would affect the FERPA analysis.

The short answer is that an amendment to the statute to extend the right of access parents now have with respect to school library records to the records of other libraries would have a reasonable chance of being upheld. However, a narrowly tailored access provision for purposes other than censorship or applicable only to younger children would better withstand scrutiny. A court will balance, for constitutional purposes, the privacy rights and First Amendment rights of the child against other interests, such as the state interest in promoting the family unit and protecting a child from harm. The age of a child does appear to affect the balancing of interests and the parent's rights to educational records under FERPA, but I found no case directly on point in Alaska. A brief discussion follows.

The statute at issue, AS 40.25.140(a), currently declares that all personal identifying information of persons who have used library materials shall be kept confidential and is excluded from the public records inspection provisions. AS 40.25.140(b) expressly allows parental access to their child's records only at a public elementary or secondary school library. CSSB 269(CRA) defines a "child" as one who is under 18 and broadens parent access to a child's records at all libraries operated by the state, a municipality, a public school and a public library nonprofit corporation.

Right to Privacy Balanced Against Other Interests

The Alaska Constitution, Article I, section 22, recognizes a general right of privacy. That right has been held to apply to minors under the age of 18 but has been balanced against other interests, such as the state's interest in access to information and in protecting minors from harm. In the Matter of L.A.M. v. State of Alaska, 547 P2d 827 (Alaska

Representative Max Gruenberg
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1976). The court may view the age of the child as a factor in determining whether parental access to library records violates the child's privacy rights. The balancing test would probably also consider the child's First Amendment rights.

With respect to a child's First Amendment rights, there have been a number of cases that have held that students enjoy a right to receive information and ideas as a corollary of the rights of free speech and press. (Board of Education v. Pico, 457 US 853 (1982); Minarcini v. Strongsville City School District, 541 F.2d 577 (6th Cir. 1976); Right to Read Defense Committee of Chelsea v. School Committee, 454 F.Supp. 703 (D. Mass. 1978)). These cases are fairly narrow, finding limits on the power of a school board to remove a book from a school library but not restricting the discretion of the board to control curriculum (required reading rather than voluntary reading) or, even, to choose new books to add to a school library. Borrower information is considered to be protected under the first amendment to the federal constitution and under the right to privacy. ("The FBI's Library Awareness Program: Is Big Brother Reading Over Your Shoulder?" Ault, 65 NYL Rev. 1552 (1990)) Nevertheless, the right to confidential treatment of borrower information is limited and may be overridden by other public interests. (Brown v. Johnson, 328 NW2d 510 (Iowa, 1983))

In addition to First Amendment considerations, other states have balanced a privacy right with interests such as access to public records and to maintenance of a library system with young users who may be forgetful of book return obligations. See, e.g., Opinion of the Attorney General (Virginia, #02-002, Feb. 2002). Other jurisdictions that have passed some form of parental access provision for library records include Colorado, Alabama and Ohio.

I have found nothing to suggest that parents have a constitutionally based right of access to a child's library records that would override the restriction on access contained in statute. Article I, sec. 22 of the state constitution directs the legislature to implement the state right of privacy, which it has done with respect to library borrowers' information in enacting AS 40.25.140.

There appear to be no Alaska cases or Attorney General opinions interpreting AS 40.25.140.¹ However, I found one informal opinion dealing with the question of confidentiality of library borrower information which was issued before the statute was adopted. (AG Op. 166-255-84, July 13, 1984) In this opinion the Attorney General

¹ The public libraries have adopted interpretive policies giving parents, for example, limited access when they present the child's library card with a request or by using their own card for their child's books. You asked whether a library can ask a child to waive their right to privacy when, for example, fines become overdue. Again, I have found no cases on point but the age and the information available to the child pertaining to their right to privacy would likely be considered by a court in determining whether the waiver was informed and voluntary.

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concluded that borrowers do have a privacy right in information identifying the library materials they use, but that specific circumstances might outweigh that privacy interest in favor of disclosure.

The Alaska Supreme Court has held that control of child rearing is a fundamental parental interest, but it is not a foregone conclusion that our court will uphold a statute making all library records of minors available to parents. Remember that the United States Supreme Court has found in one significant instance (abortion) that a minor's right to privacy outweighs the absolute right of a parent to notice of the minor's condition and planned medical treatment. (Bellotti v. Baird, 443 US 622, 617 L.Ed.2d 797 (1979) reh. den., 444 US 887, 62 L.Ed 2d 121), and our state constitutional guarantee is broader than the inferred right of privacy under the federal constitution. (Valley Hospital Association v. Mat-Su Coalition for Choice, 948 P.2d 963(Alaska 1997); Messerli v. State, 626 P.2d 81 (Alaska 1980); State v. Glass, 583 P.2d 872 (Alaska 1978)). Still, I believe that a limited right of access to a minor's library records for parents and guardians might be justified as furthering the legitimate interests of the state in supporting the family unit and rights of parents to supervise their children and direct their children's education. If the statute were limited to apply only to records of younger minors, say those under 16, the constitutional risk would be very little.

While no judicial determination in this state has resolved the potential conflict between a child's right to privacy and a parent's right to care for their child, the Alaska Legislature has done so in other contexts. For example, a parent or guardian has a right to consent to medical treatment for their child except in certain circumstances described in AS 25.20.025 and to access their child's social service records under AS 47.30.590. Educational records are similarly available to parents and legal guardians under the federal Family Educational Rights and Privacy Act of 1974 and AS 14.03.115, as further discussed below.

Family Educational Rights Privacy Act

The federal Family Educational Rights Privacy Act ("FERPA") (20 U.S.C. 1392g) protects a student's educational records from disclosure beyond a certain limited group of people and institutions without the notice and consent of the parent or legal guardian.² In the case of a student who is 18 years of age or older and a student, regardless of age, who attends a postsecondary institution, the right to notice and consent shifts to the student. (20 U.S.C. 1392g (d) and (e)).

FERPA is not implicated at all outside of the school context, and perhaps not at all with respect to library records even when those records are maintained by a public school if a

² You asked whether the bill's use of the term "parent" without reference to custodial status of the parent is an issue. FERPA does not make such a distinction but instead gives equal status to both parents. I would surmise that the absence of that distinction in the bill would not make it more or less vulnerable to attack.

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court determines that a library record is not an educational record within the meaning of the Act.³ The federal interpretive regulations, 34 CFR Part 99.3, define an "education record" as a record that is "(1) Directly related to a student; and (2) Maintained by an educational agency or institution or by a party acting for the agency or institution." While some public school library records may fit this definition, the Act excludes "directory information" that is defined in federal regulations as that information

...that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status....

34 CFR Part 99.3

And, unlike the current Alaska restriction on all access to public library records by a parent both within and outside of a school setting, FERPA provides an opportunity for disclosure to certain persons and institutions and for consent by the parent or student to allow for broader disclosure of education records.

I don't perceive, therefore, any obstacles in relation to FERPA except perhaps once a child enters a postsecondary school. In that case, FERPA seems to exclude the possibility of parent access to education records, unless the child consents to the access.

If I may be of further assistance, please advise.

JMM:med
04-442.med

³ When FERPA does apply, the risk is a loss of federal education funding for violations. A state may, however, petition the federal agency when a conflict of laws is identified.

Ryan Makinster

From: Weeks, Art L. [WeeksAL@ci.anchorage.ak.us]
Sent: Sunday, April 18, 2004 2:35 PM
To: Representative_Lesil_McGuire@legis.state.ak.us
Cc: Representative_Tom_Anderson@legis.state.ak.us; Representative_Jim_Holm@legis.state.ak.us; Representative_Dan_Ogg@legis.state.ak.us; Representative_Ralph_Samuels@legis.state.ak.us; Representative_Les_Gara@legis.state.ak.us; Representative_Max_Gruenberg@legis.state.ak.us
Subject: Testimony on SB 269: Access to the library records of a child by a parent.

<<Testimony on SB 269.doc>>

Attached please find my testimony on SB 269. It is my intention to teleconference this testimony on Monday, April 19. Due to a previous appointment, I will not be able to provide vocal testimony after 1:30 PM. If I miss the opportunity to contribute this testimony before the Judiciary Committee on this date and time, please accept this written testimony.

Sincerely,

Art Weeks

Municipal Librarian

Anchorage Municipal Libraries

3600 Denali Street

Anchorage, Alaska 99503

Tel: (907) 343-2983

Fax: (907) 343-2817

Cell: (907) 351-9402

The mission of the Anchorage Municipal Libraries is to bring the power of information, imagination, and inspiration to the people of our community

Testimony on SB 269: Access to the library records of a child by a parent or guardian.

Before the House Judiciary Committee

April 19, 2004.

To: Chair Lesil McGuire

From: Art Weeks; Municipal Librarian, Anchorage Municipal Libraries

CC: Representatives Anderson, Holm, Ogg, Samuels, Gara, and Gruenberg.

This testimony is presented in my capacity as the Municipal Librarian for Anchorage Municipal Libraries (AML). It is based on the existing policies and practices of this library system. It is also based on the professional principles as adopted by the American Library Association which have been endorsed by the AML Library Advisory Board as well as the position taken by the community of Alaska's public librarians.

The position of the library community is that everyone, regardless of age, has a right to read, a right to free inquiry, and a right of privacy. The library community urges parents to be involved with their child's curiosity and take an active role in their interests, including reading. When parents have developed honest and open communication with their children such legislation is unnecessary. The library community would urge parents with children at the toddler through elementary school years to accompany their child to the library. This is for reasons of safety as well as assistance.

In the teen years, young people are beginning to discover and explore life on their own. Many teens are trying to cope with abusive parents or caretakers, alcoholism (either by peers or parents), perhaps a future vocation that has met disapproval by their parents, or even questions about their own sexual identity. Our collections are designed to provide information for such inquiry and our laws are designed to protect privacy of the reader.

The library community is further concerned with the disclosure of reader records, which not only contain a list of the books currently held by the child, but also the residential address of the minor child. Non-custodial parents, parents for whom restraining orders have been issued, and persons posing as parents present safety and liability concerns that the public library is unequipped to handle.

Currently, Anchorage Municipal Libraries adheres to the confidentiality law and does not disclose a reader record to anyone unless it is a law enforcement official with a properly drawn court order. AML does disclose the titles of overdue materials as parents have agreed to be responsible for the compensation of lost or overdue materials. The policy of disclosure for overdue or lost materials is not universally practiced throughout Alaska.

In summary, SB 269 removes the protection of confidentiality that has been the cornerstone of Alaskan law since statehood. I urge that the Judiciary Committee seek input from citizen groups that represent the public library's interests as well as individual citizens who have advocated positions of support or modification to the proposed legislation.

The Library Advisory Board of the Anchorage Municipal Libraries has been charged by the Anchorage Assembly to study and comment on this legislation. The report of the Library Advisory Board is scheduled to be heard by the Assembly on April 27, 2004. At that time the Anchorage Assembly is expected to vote on a resolution regarding this bill. I urge the committee to withhold decision until such input is gained.

To Whom it May Concern, March 10, 2004

It is with great dismay that we've witnessed the rapid acceptance of SB 269 by our lawmakers. While the concept of allowing parental access to children's library records may seem to be common sense, this bill is unnecessary, and worse, the ramifications of modifying the right to privacy law and the constitutional challenges that may arise thereof are very complex.

The current handling of children's library records in no way undermines the parents' or guardians' right to know what their children are reading. It merely means that they must communicate with their children to find out.

Within the current system, a parent has a choice whether or not to allow a minor child to have his/her own library card. In fact, in the Mat-Su Borough Library Network, parents must sign an application form, stating that they are aware of, and agree to, the confidentiality law.

Parents/guardians are able, at any time, to use their child's library card to access their child's records through the on-line library catalog. Not only can they view what has been checked out, they can also renew materials to avoid overdue fines. Since libraries offer computers for public use, even patrons with no home computer can access the on-line library catalog.

With the passage of this bill, public library staff are being put in a position of needing to make decisions about who should or should not be privy to a child's records. They will bear the "burden of proof" as to whether or not an adult asking for information on a child's record is indeed legally responsible for that child and has parental authority to access the information.

Public libraries should not be likened to a school library. The relationship between schools and families is much more intimate than that with the public library. Parents entrust schools with the education and care of their children six hours a day, five days a week, nine months of the year. School personnel have access to confidential personal and family information such as custody and restraining orders. A public library staff has previously had no reason to have that information, but with this bill it may become necessary.

Our country's libraries are committed to being non-discriminatory educational and recreational facilities for all the patrons they serve, supporting the foundation of democratic society. This bill jeopardizes the ability of Alaskan libraries to uphold that ethic.

The Friends of the Talkeetna Library support and encourage parental involvement and a parent's right to guide minor children. We also believe that legislation should support the constitutional rights of those children. Thank you for your time.

Sincerely,
Friends of the Talkeetna Library
Cari Sayre, President
George Wagner, Vice-President
Pam Robinson, Secretary-Treasurer
Peg Foster, Board member

Subject: Change to Senate Bill 269

Date: Thu, 1 Apr 2004 16:43:10 -0900

From: "Patricia Linville" <plinville@cityofseward.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

*Vanessa -
PB put in
my packet
on this.*

Recently a young teacher rushed into our public library, laid a book on the desk and demanded "Tell me who had checked this book out, please. I picked it up in the school hall and I am going to let whoever left this on the floor have a piece of my mind. They shouldn't be allowed to treat books like this." While I truly understood her intent I don't want to put the library in the role of watchdog or to our younger patrons "tattletale".

Librarians are not babysitters. We are entrusted with making sure that as much information as possible is available to our clients, whatever their age, gender or religion. We are not trained to mediate between parents and children, husbands and lovers or teachers and students. We are trained to guide people with questions to answers. We can lean on the privacy rules by which we are currently governed to limit our work to that of which we have been trained. Enactment of this bill would put us in the midst of sometimes difficult situations that we are not trained to handle.

It is within this context that I request the following revisions to SB 269 "An Act relating to access to library records, including access to the library records of a child by a parent or guardian." While school libraries are governed by the principles inherent when serving a captive audience public libraries are serving those who choose to partake of our offerings. Therefore patrons should also have the opportunity to choose who should have access to the information that they reveal or accumulate on their library records. I would recommend that the language of SB 269 be changed to allow a card holder to name those who he/she would allow to access to his/her records. In that way librarians are not revealing what has to be considered private because we have permission to do so. With that language added to this bill, public librarians could work within their chosen profession and library patrons could be secure in their right to privacy.

Thank you for your consideration of this matter.

Sincerely,

Patricia Linville, Library Director

Patricia Linville, Library Director

Seward Community Library

Box 2389

Seward, AK 99664

907-224-4008 FAX 907-224-3521

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Cover Sheet

Anchorage Legislative Information Office
Office - (907) 269-0111 Fax - (907) 269-0229

To: HJUD

Atten: _____ Fax: 465-6597 Phone: _____

From: Anc L10 Phone: _____

Instructions: Testimony for SB269

Sent: _____ Date: 4-20 Time: 11:25

Disposal of Original: _____ Pouch: _____ Discard: _____

Number of Pages: 2 (counting cover sheet)

I am writing in opposition to SB269-"Parent Access to Child's Library Records" and in behalf of children. I am writing as a retired physician, marriage & family therapist, parent, and being a gay man as well, as one who has had an abiding interest in gay issues, library issues, and the education of children. I have raised three heterosexual sons and have six grandchildren. While at present I am a co-chair of the local chapter of GLSEN/Alaska (the Gay, Lesbian, & Straight Education Network), the following ideas are my private opinion and do not necessarily reflect those of the organization.

Prevailing views in the current literature among researchers in human sexuality are that:

- 1) The incidence of homosexuality is about five percent among boys and about 1-2 percent among girls. In the roughly 50,000 students in the Anchorage School District, about 1500-2000 would self-identify as 'not heterosexual' by the time they leave high school;
- 2) The age of first awareness of sexual orientation is much younger than popular opinion believes, for the median is about 11-13 years of age, although the range is broad.
- 3) Teenagers who become aware of their 'different' orientation usually face a mostly hostile climate at school, at home, at church, and among their friends and peers. Few parents are prepared to cope with a gay or lesbian child, and many—perhaps most—are overtly rejecting at first. Likewise, the majority of teachers and school counselors are poorly trained about gay issues, and worse, many are frankly hostile largely on religious grounds.
- 4) Thus, resources available to a twelve-year-old for information and emotional support usually exclude the adults in his or her life, as well as peers. What is left are street-talk myths, the internet and the libraries. However, most internet filters that parents and librarians use exclude any information about sexuality. Books and journals in libraries thus become almost the sole resource that the twelve-year-old has that will help him or her learn that they are not alone, that it is possible to have a happy, fulfilled, and useful life as a gay man or lesbian, and that there are resources available to them, even if their own parents, teachers, and clergy are not supportive.

SB269 would effectively deprive a significant population of young people of a major resource in navigating the hazards of adolescence. Coming to accept one's sexual orientation is hard enough for a teenager. Please do not make it even harder still, by taking away their privacy at libraries, perhaps the only place where they can safely explore in a confusing yet wonderful process of discovering themselves.

The sponsors of SB269 are well-intended, but have a mistaken belief that they are protecting children. In reality SB269 would harm many of them. Let the idea die!

Frederick J. Hillman, MD (ret.)
1685 Stanton Ave., Anchorage, AK 99508
907-562-7161. fhillman@alaska.net

April 19, 2004

Representative McGuire
Chair, Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801-1182

Dear Ms. McGuire,

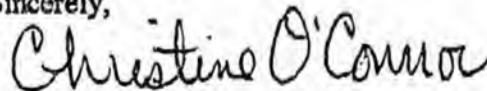
I was planning to testify before the Judiciary Committee this afternoon regarding Parent Access to Child's Library Records but since the hearing was postponed I thought I would take a minute and express some of my concerns in writing.

I am the librarian in Dillingham and also the Mother of an 11 year old son and 13 year old daughter. I am concerned that the very broad approach this bill is taking could cause harm to teen-agers. The voices calling for this bill seem to be mainly concerned with convenience, can they identify overdue books or can they pick up books their child has reserved? These are legitimate concerns. But the solution should not be to threaten the ability of libraries to offer safe, confidential information to teens. A teen needing health, religious, sexual abuse or other sensitive information should not have to worry about possibly abusive parents finding out.

The ideal is of course for parents and teens to have a loving relationship with open communication. Teens seeking information should be able to do so in partnership with their parents. Unfortunately this is not always the case. I have had a teen ask me to find information for her and ask me, "Don't tell anyone, people are giving me a hard time about this." And she wasn't looking for dangerous material, simply books about religion. I was able to assure her that her records were confidential and I would not tell anyone. I cannot imagine having to tell her that yes, I could get the information, but I also would have to tell her parents if they asked.

Please consider amending this bill to protect teens. I plan to testify by teleconference when this bill is heard before your committee. Thank you in advance for consideration of my remarks.

Sincerely,



Christine O'Connor
PO Box 852
Dillingham, AK 99576

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/OI/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.

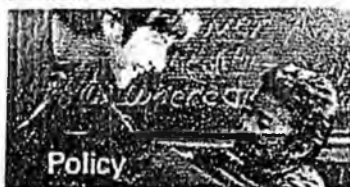
Jacqueline F. Tupou
staff for Senator Lyda Green
Alaska State Senate
877-465-6601
or direct dial 907 465-3712



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- Students
- Parents
- Teachers
- Administrators



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

P.O. Box 5001

Palmer, AK 99645

(907) 745-9735

Fax: (907) 745-9777

e-mail: pnvig@matsu.alaska.edu

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

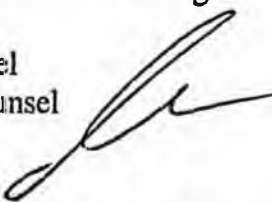
MEMORANDUM

April 22, 2004

SUBJECT: Parent Access to Library Records (CSSB 269(CRA))

TO: Representative Max Gruenberg

FROM: Jean M. Mischel
Legislative Counsel



You have requested an opinion on whether a constitutional or federal Family Educational and Privacy Rights Act (20 U.S.C. 1232g) problem exists with respect to CSSB 269(CRA), which allows a parent to access their child's library records. You further ask whether the age of the child would make a difference to the analysis and whether the attendance of a child at a post-secondary educational institution would affect the FERPA analysis.

The short answer is that an amendment to the statute to extend the right of access parents now have with respect to school library records to the records of other libraries would have a reasonable chance of being upheld. However, a narrowly tailored access provision for purposes other than censorship or applicable only to younger children would better withstand scrutiny. A court will balance, for constitutional purposes, the privacy rights and First Amendment rights of the child against other interests, such as the state interest in promoting the family unit and protecting a child from harm. The age of a child does appear to affect the balancing of interests and the parent's rights to educational records under FERPA, but I found no case directly on point in Alaska. A brief discussion follows.

The statute at issue, AS 40.25.140(a), currently declares that all personal identifying information of persons who have used library materials shall be kept confidential and is excluded from the public records inspection provisions. AS 40.25.140(b) expressly allows parental access to their child's records only at a public elementary or secondary school library. CSSB 269(CRA) defines a "child" as one who is under 18 and broadens parent access to a child's records at all libraries operated by the state, a municipality, a public school and a public library nonprofit corporation.

Right to Privacy Balanced Against Other Interests

The Alaska Constitution, Article I, section 22, recognizes a general right of privacy. That right has been held to apply to minors under the age of 18 but has been balanced against other interests, such as the state's interest in access to information and in protecting minors from harm. In the Matter of L.A.M. v. State of Alaska, 547 P2d 827 (Alaska

Representative Max Gruenberg
April 22, 2004
Page 2

1976). The court may view the age of the child as a factor in determining whether parental access to library records violates the child's privacy rights. The balancing test would probably also consider the child's First Amendment rights.

With respect to a child's First Amendment rights, there have been a number of cases that have held that students enjoy a right to receive information and ideas as a corollary of the rights of free speech and press. (Board of Education v. Pico, 457 US 853 (1982); Minarcini v. Strongsville City School District, 541 F.2d 577 (6th Cir. 1976); Right to Read Defense Committee of Chelsea v. School Committee, 454 F.Supp. 703 (D. Mass. 1978)). These cases are fairly narrow, finding limits on the power of a school board to remove a book from a school library but not restricting the discretion of the board to control curriculum (required reading rather than voluntary reading) or, even, to choose new books to add to a school library. Borrower information is considered to be protected under the first amendment to the federal constitution and under the right to privacy. ("The FBI's Library Awareness Program: Is Big Brother Reading Over Your Shoulder?" Ault, 65 NYL Rev. 1552 (1990)) Nevertheless, the right to confidential treatment of borrower information is limited and may be overridden by other public interests. (Brown v. Johnson, 328 NW2d 510 (Iowa, 1983))

In addition to First Amendment considerations, other states have balanced a privacy right with interests such as access to public records and to maintenance of a library system with young users who may be forgetful of book return obligations. See, e.g., Opinion of the Attorney General (Virginia, #02-002, Feb. 2002). Other jurisdictions that have passed some form of parental access provision for library records include Colorado, Alabama and Ohio.

I have found nothing to suggest that parents have a constitutionally based right of access to a child's library records that would override the restriction on access contained in statute. Article I, sec. 22 of the state constitution directs the legislature to implement the state right of privacy, which it has done with respect to library borrowers' information in enacting AS 40.25.140.

There appear to be no Alaska cases or Attorney General opinions interpreting AS 40.25.140.¹ However, I found one informal opinion dealing with the question of confidentiality of library borrower information which was issued before the statute was adopted. (AG Op. 166-255-84, July 13, 1984) In this opinion the Attorney General

¹ The public libraries have adopted interpretive policies giving parents, for example, limited access when they present the child's library card with a request or by using their own card for their child's books. You asked whether a library can ask a child to waive their right to privacy when, for example, fines become overdue. Again, I have found no cases on point but the age and the information available to the child pertaining to their right to privacy would likely be considered by a court in determining whether the waiver was informed and voluntary.

Representative Max Gruenberg

April 22, 2004

Page 3

concluded that borrowers do have a privacy right in information identifying the library materials they use, but that specific circumstances might outweigh that privacy interest in favor of disclosure.

The Alaska Supreme Court has held that control of child rearing is a fundamental parental interest, but it is not a foregone conclusion that our court will uphold a statute making all library records of minors available to parents. Remember that the United States Supreme Court has found in one significant instance (abortion) that a minor's right to privacy outweighs the absolute right of a parent to notice of the minor's condition and planned medical treatment. (Bellotti v. Baird, 443 US 622, 617 L.Ed.2d 797 (1979) *reh. den.*, 444 US 887, 62 L.Ed 2d 121), and our state constitutional guarantee is broader than the inferred right of privacy under the federal constitution. (Valley Hospital Association v. Mat-Su Coalition for Choice, 948 P.2d 963(Alaska 1997); Messerli v. State, 626 P.2d 81 (Alaska 1980); State v. Glass, 583 P.2d 872 (Alaska 1978)). Still, I believe that a limited right of access to a minor's library records for parents and guardians might be justified as furthering the legitimate interests of the state in supporting the family unit and rights of parents to supervise their children and direct their children's education. If the statute were limited to apply only to records of younger minors, say those under 16, the constitutional risk would be very little.

While no judicial determination in this state has resolved the potential conflict between a child's right to privacy and a parent's right to care for their child, the Alaska Legislature has done so in other contexts. For example, a parent or guardian has a right to consent to medical treatment for their child except in certain circumstances described in AS 25.20.025 and to access their child's social service records under AS 47.30.590. Educational records are similarly available to parents and legal guardians under the federal Family Educational Rights and Privacy Act of 1974 and AS 14.03.115, as further discussed below.

Family Educational Rights Privacy Act

The federal Family Educational Rights Privacy Act ("FERPA") (20 U.S.C. 1392g) protects a student's educational records from disclosure beyond a certain limited group of people and institutions without the notice and consent of the parent or legal guardian.² In the case of a student who is 18 years of age or older and a student, regardless of age, who attends a postsecondary institution, the right to notice and consent shifts to the student. (20 U.S.C. 1392g (d) and (e)).

FERPA is not implicated at all outside of the school context, and perhaps not at all with respect to library records even when those records are maintained by a public school if a

² You asked whether the bill's use of the term "parent" without reference to custodial status of the parent is an issue. FERPA does not make such a distinction but instead gives equal status to both parents. I would surmise that the absence of that distinction in the bill would not make it more or less vulnerable to attack.

Representative Max Gruenberg
April 22, 2004
Page 4

court determines that a library record is not an educational record within the meaning of the Act.³ The federal interpretive regulations, 34 CFR Part 99.3, define an "education record" as a record that is "(1) Directly related to a student; and (2) Maintained by an educational agency or institution or by a party acting for the agency or institution." While some public school library records may fit this definition, the Act excludes "directory information" that is defined in federal regulations as that information

...that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status....

34 CFR Part 99.3

And, unlike the current Alaska restriction on all access to public library records by a parent both within and outside of a school setting, FERPA provides an opportunity for disclosure to certain persons and institutions and for consent by the parent or student to allow for broader disclosure of education records.

I don't perceive, therefore, any obstacles in relation to FERPA except perhaps once a child enters a postsecondary school. In that case, FERPA seems to exclude the possibility of parent access to education records, unless the child consents to the access.

If I may be of further assistance, please advise.

JMM:med
04-442.med

³ When FERPA does apply, the risk is a loss of federal education funding for violations. A state may, however, petition the federal agency when a conflict of laws is identified.

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Sesston:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT G

MEMO

DATE: 3/31/2004

To: House Judiciary
Representative Lesil McGuire
Attn: Vanessa Tondini

From: Senator Lyda Green
Jacqueline Tupou

RE: Request for a hearing for Senate Bill 269 and Senate Bill 288

I am requesting a hearing for Senate Bills 269 and Senate Bill 288 in House Judiciary. I have attached copies of the bills, sponsor statements, fiscal notes and supporting information. Thank you in advance for your time and attention in this matter.

JT
Questions....please feel free to call x3712

ALASKA STATE LEGISLATURE



(907) 376-3157 Fax

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.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 269(CRA)
 (S) Publish Date: 2/19/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to access to the library records RDU CIVIL
of a child by a parent or guardian." Component Labor & State Affairs
 Sponsor Senator Green
 Requester Senate Community and Regional Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This bill amends AS 40.25.140(b) by broadening the requirement that library records for a child under 18 years of age to be made available by the child's parent or guardian upon request. The change no longer limits the requirement to public elementary or secondary schools, but rather makes it applicable to any public library.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division Administrative Services Date/Time 2/6/04 3:45 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/6/2004
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 269(CRA)
 (S) Publish Date: 2/19/04

Revision Date/Time (Note if correction): _____ Dept. Affected: EED
 Title "An Act relating to access to the RDU _____
library records of a child by a parent or guardian." Component _____
 Sponsor Senator Green _____
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
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Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Eddy Jeans, School Finance Manager Phone 907-465-8679
 Division: ESS/School Finance Date/Time 2/17/04 8:55 AM
 Approved by: _____ Date 2/17/2004
 Agency: Education & Early Development

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

-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 of 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.

NCSL

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
deciding for
parents rights

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

P.O. Box 5001

Palmer, AK 99645

(907) 745-9735

Fax: (907) 745-9777

e-mail: pnvig@matsu.alaska.edu

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: Library privacy]
Date: Wed, 25 Feb 2004 07:36:15 -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: Library privacy
Date: Tue, 24 Feb 2004 16:22:36 -0900
From: "sarah palin" <spalin@mtaonline.net>
To: <Senator_Lyda_Green@legis.state.ak.us>
CC: <Dianne_Keller@ci.wasilla.ak.us>, <mayor@ci.wasilla.ak.us>

Lyda:

Thank you for introducing legislation that deals with the library privacy issue. What a ridiculous, idiotic, asinine interpretation of a law: that we as parents can't know what books are checked out by our children at the library?! This is a fine example of just how screwed up some aspects of society are...

Thanks Lyda.
Sarah Palin

cc: Dianne Keller

Subject: [Fwd: librarians?]
Date: Wed, 25 Feb 2004 07:34:10 -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: librarians?
Date: Tue, 24 Feb 2004 17:11:09 -0900 (Alaskan Standard Time)
From: "Elkhorn" <elkhorn@mtaonline.net>
To: <senator_lyda_green@legis.state.ak.us>

ELKHORN LOG HOME BUILDERS, INC.



Greg & Cindy Koskela 1534 W. Lake Lucille Dr.
(907)373-0449 wk Wasilla, AK 99654
(907)232-1286 cell www.elkhornloghomes.com

Senator Green

Thank you for doing a great job, I do not know what the librarians care if I want to know what my MINOR child is doing, do not back down to these people, they have no right to tell parents what is best for our kids. If I am responsible for my kids actions then I need to know what they are doing. That is what is wrong with society, the few parents who do not care what their kids are doing ruin it for all.

We need to fight back against all these groups, I do not know why a librarian would care if a kid, who they do not know from Adam, has his or her parents check in on them, are all of the sudden they are the saviours of the world? They have no power or authority, they are hired, not elected or appointed. Please continue to do what is right for our community, sorry to vent on you.

Greg Koskela
Wasilla Planning commission

Subject: [Fwd: BOOKS CHECKED OUT OF LIBRARIES BY KIDS]

Date: Tue, 24 Feb 2004 16:11:37 -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: BOOKS CHECKED OUT OF LIBRARIES BY KIDS

Date: Tue, 24 Feb 2004 18:48:14 -0600

From: "Conrad Nelson" <connelson@charter.net>

To: <senator_lyda_green@legis.state.ak.us>

I've read the story in the Anchorage Daily News about what books kids are checking out of libraries, and your bill to allow parents to know what books are being checked out. The objections by the librarians to your bill are just plain nuts. On one hand these same people will say that the parents are responsible for bring up their kids in the right way, and to teach them values to be responsible citizens. Then they turn around and want to ham-string the parent's ability to do the right thing by citing these privacy laws. How are the parents going to teach if they do not have the right to know what their kids are doing, or looking at, especially an eight year old child.

I wish you all the luck in the world that your bill makes it through.

in the U.P. of Michigan

C. Nelson

Subject: [Fwd: Senate Bill 269]
Date: Tue, 24 Feb 2004 14:39:11 -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: Senate Bill 269
Date: Tue, 24 Feb 2004 15:36:57 -0800
From: yeahbaby@mtaonline.net
To: Senator_Lyda_Green@legis.state.ak.us

Email For: Senator Lyda Green
From: yeahbaby@mtaonline.net
Name: Sonya Andreanoff
Street: 3060 N. Winona St.
City: Wasilla
Zip Code: 99654

Subject: Senate Bill 269

I wanted to write in support of this bill! I believe with all the media as of late on how parents need to be involved with their children and bother them to know what is going on, that the least that the State can do is allow us the right to do so without interference! We are to pay for any damages that our children do to public facilities yet we dont have the right to see what they are reading? I want to see this bill passed and i support your attempts to do so! Thank you Lyda Green for bringing this to my attention!

Sincerely,
Sonya D. Andreanoff
Po box 874742
Wasilla, Alaska 99687
(907) 357-3987
yeahbaby@mtaonline.net

Please Add My Email Address to your distribution list. Thank You.

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FEB 24 2004

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Wasilla, Alaska 99687
(907) 357-3987
yeahbaby@mtaonline.net

Please Add My Email Address to your distribution list. Thank You.

Subject: [Fwd: library bill]
Date: Tue, 24 Feb 2004 08:10:43 -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: library bill
Date: Tue, 24 Feb 2004 10:33:57 -0600
From: "Kelley, Kent S." <Kent.Kelley@natoil.com>
To: "Senator_Lyda_Green@legis.state.ak.us" <Senator_Lyda_Green@legis.state.ak.us>

Dear Senator, thank you for introducing the bill to allow parents to check on what books my kids have checked out. We stopped using the public library years ago because of that policy.

Kent Kelley
Eagle River

Subject: Parental Access to Library Records

Date: Wed, 11 Feb 2004 10:09:08 -0900

From: RhoadesFamily <drhoades@gci.net>

To: jacqueline_tupou@legis.state.ak.us

My name is Karen Rhoades and I reside at 3310 W. Riverdell Dr. in Wasilla, AK.
I have one child, age 15 currently attending Wasilla High School.

When my son was in elementary school, we were homeschoolers and had made our weekly trip to the Wasilla Public Library. My son had placed some books on hold and later in the week the library called to say that his books were ready to be picked up. I asked them which books and they told me that the State of Alaska privacy laws prohibit them from releasing this information. At the time, I do not believe that this was referenced anywhere on the library card application because I do not remember being informed of this when my son applied for his card. Since then the library system has revised their application to reference this statute. Although my husband and I were quite disturbed about this interference with parental rights we figured that since a state law was involved there was nothing we could do so I destroyed my son's card and have since allowed him to use mine.

Sometime later I received a call that some books I had on hold were available for pickup and since I was at work, I asked my husband to pick them up for me and the library refused to give them to him, citing this same law. The library has also used this law to keep my husband and I from picking up our son's books for him. After much persuasion on my husband's part, he convinced the librarians to put a comment on my patron's checkout page that states that he or my son has permission from me to pick up my books. Every time I check out a book this page comes up and the librarian has to reconfirm that this is still true. They've been subjecting me to this for 5 years now.

During the process of challenging other unfriendly library policies, I came to find out that all policy in the Matanuska-Susitna Borough library system is written by a board consisting of the 5 head librarians. This law does not force them to prohibit parental access to children's library records but a loophole in the wording of this statute allows them to choose to use it this way. The Kodiak Island Borough does not apply this statute to their borrowing privileges so I know that the Mat-Su librarians do not have to either.

The loophole allows parental access to school library records but not municipal/public library records. The librarians argue that the parent can access their child's records via the internet however this assumes that the parent has access to a computer and that they know how to use one. This is making a parent "jump through hoops" to gain access to information that is rightfully theirs, not only by virtue of being the parent of a minor but also because they are financially liable for lost or stolen library material.

Therefore, I am proposing a change of wording as follows:

I am requesting that the wording of AS 40.25.140 Section (b) be amended as follows:<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

"Records of any minor child under the age of 18, shall be made
available on request to a parent or guardian of that child."

I realize that with all the Legislature has to consider this year that this seems to be a small request. However, the underlying principle for my request is not small at all. Our rights as citizens are being challenged on all fronts these days and any effort that my legislative representatives make to protect my rights as a citizen and a parent are greatly appreciated.

Thank you for your consideration of my proposal.

Karen Rhoades

Subject: [Fwd: libraries]
Date: Thu, 26 Feb 2004 15:21:52 -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: libraries
Date: Thu, 26 Feb 2004 15:29:42 -0900
From: kent kelley <ekkelley@gci.net>
To: Senator_Lyda_Green@legis.state.ak.us

Lyda,

I just want to thank you and encourage you in your effort to pass a bill that gives parents access to the books their children check out. This has been a problem for many years. I was outraged about six years ago when the librarians in Eagle River refused to help me find the titles of the books my son had checked out. They told me it was a state law to protect his privacy. I went directly to Rick Halford's office to voice my objection. Apparently, he didn't take the issue seriously. I am very glad to see you do. Since that day, my son was no longer allowed to use his library card and my other three children have not been permitted to get one of their own. If we need a book, we use my card.

Thanks again,

Erin Kelley

Subject: [Fwd: library records of children]

Date: Thu, 26 Feb 2004 15:22:09 -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: library records of children

Date: Thu, 26 Feb 2004 13:51:28 -0900

From: Nancy Harries <harries@ak.net>

To: Senator_Lyda_Green@legis.state.ak.us

Dear Sen. Green,

I read in the Fairbanks Daily News-Miner that you have introduced legislation requiring public libraries to give parents access to their children's records on request.

It seems amazing to me that this ability of parents may require legislation. Be that as it may, I support your legislation and encourage you to see it pass. Not just for overdue books as the Alaska Library Association may suggest. We do not need to make it any more difficult for parents to parent than it already is.

Thank you for your efforts on behalf of Alaska families.

Sincerely,
Nancy Harries
Fairbanks, Alaska

Subject: [Fwd: S 269]
Date: Tue, 02 Mar 2004 08:04:57 -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: S 269
Date: Mon, 1 Mar 2004 18:55:19 -0900
From: Robert Baker <docbob@acsalaska.net>
To: Senator_Ben_Stevens@legis.state.ak.us
CC: Senator_Lyda_Green@legis.state.ak.us,
Lesil McGuire <Representative_Lesil_McGuire@legis.state.ak.us>, talkback@ktuu.com

Dear Senator Stevens:

Please support the basic concept of S 269; i.e. give parents the right to review library records re. what their children are reading and to control what they are reading.

This concept is just common sense and I am amazed that this is not a given. This resistance of the library personnel is just another case in a long line of liberal positions that add to an eroding society. It is recognized that some modifications to the basic bill as proposed by Senator Green may be required but she should be given high honors for taking the initiative in this matter.

My offspring are grown and have flown the nest. If my children were still in the ASD from which the boys graduated (the girls graduated elsewhere in public schools) I would insist on my rights as a parent of minor children to have access to all aspects of their education including the list of publications read in any and all libraries. Denial of such access would result in a civil suit by this parent.

As an adjunct university faculty member, I recognize the importance of libraries but also understand that many of the publications in these repositories are not suitable for minor children. The same observation applies to some of the internet web sites and TV programs.

Sincerely,

Robert O. Baker, Ph.D., Cdr. USN (ret)
Anchorage

P.S. As we old sailors would say, "WELL DONE, LYDA!!!"

Subject: [Fwd: Senate Bill 269]
Date: Fri, 05 Mar 2004 07:55:29 -0900
From: Kim Carnot <Kim_Carnot@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Jacqueline Tupou <Jacqueline_Tupou@legis.state.ak.us>

Subject: Senate Bill 269
Date: Thu, 4 Mar 2004 15:03:44 -0900
From: "Jack and Teresa Nordby" <nordby@acsalaska.net>
To: <Representative.Pete.Kott@legis.state.ak.us>,
<Representative.Vic.Kohring@legis.state.ak.us>,
<Representative.Beverly.Masek@legis.state.ak.us>,
<Representative.Bill.Stoltze@legis.state.ak.us>, <Senator.Scott.Ogan@legis.state.ak.us>,
<kim.carnot@legis.state.ak.us>

Senate Bill 269, make children's public library records available to their parents. I believe parents should have access to their children's library records, and when SB 269 comes to the House, I would appreciate it if you supported the bill."
Sincerely,

Teresa Nordby

Kim Carnot <kim_carnot@legis.state.ak.us>
Chief of Staff
Senator Lyda Green
Senate District G



InterScan Disclaimer.txt

Name: InterScan_Disclaimer.txt

Type: Plain Text (text/plain)

Encoding: 7bit

Subject: [Fwd: Support for SB 269]
Date: Fri, 05 Mar 2004 08:05:07 -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: Support for SB 269
Date: Thu, 4 Mar 2004 19:03:13 -0900
From: "McClure, Danny" <Danny.McClure@conocophillips.com>
To: <Representative_Pete_Kott@legis.state.ak.us>
CC: <Senator_Lyda_Green@legis.state.ak.us>

Representative Kott,

I believe parents should have access to their children's library records, and when SB 269 comes to the House, I would appreciate it, if you supported the bill.

This bill would require public libraries to let parents know the same information about children that the libraries know. The state has no business obstructing a parent who is trying to learn the title of a book, so they can pay a late fee, or locate an overdue book in their house, or even pick the book up for their child. Parents need less barriers like this, and more support to raise the kids up as solid, responsible citizens.

The Alaska Library Association has argued against this bill in part because parents can obtain information about books that are currently checked out by logging onto their library's website. This makes the policy of not releasing the information over the telephone or in person to a parent even more absurd. Why is it appropriate to have this information accessible on-line but to say it is infringing on the privacy rights of children for the library to reveal the information directly to the parent ?

There should be no disconnect between the current ability to access this information on the internet and the lack of an ability to access this information in person. Parents should be entitled to ensure that materials their children check out are returned, fines are paid and replacement books purchased.

Pete, this a common sense piece of legislation that shouldn't take a Rocket Science Degree, or much of the legislature's time to fix. There are larger issues to deal with.

Thanks,

CPT (Ret) Dan McClure
23740 Sunny Glen Drive
Eagle River, AK 99577

696-8688

Subject: Please support SB269.

Date: Mon, 08 Mar 2004 20:35:48 -0900

From: Nels Tomlinson <nelstomlinson@gci.net>

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

Representative_Peggy_Wilson@legis.state.ak.us,

Representative_Carl_Gatto@legis.state.ak.us, Representative_Paul_Seaton@legis.state

Representative_Kelly_Wolf@legis.state.ak.us,

Representative_Sharon_Cissna@legis.state.ak.us,

Representative_Mary_Kapsner@legis.state.ak.us

Hello,

SB269 has been referred to your committee, and I hope that you will support it.

This bill is an important recognition of the responsibility and authority of parents. As a parent, I am responsible for my children's upbringing, and for their actions, both morally and legally. As long as the law holds me responsible, it must also give me the tools I need to carry out my responsibilities. SB 269 is a small step in the right direction.

This bill is also an important convenience for families. I have been told that if my child asks for an interlibrary loan book, I cannot pick it up at the library for him, because of the current privacy laws. I cannot find out from the library what books my child has checked out, to ensure that he returns them on time. SB269 will end this sort of silliness.

Thanks for your time.

Sincerely,
Nels Tomlinson

Subject: library privacy bill

Date: Tue, 09 Mar 2004 20:00:07 -0900

From: Scott and Rebecca Bleeker <glory2god@alaska.com>

To: jacqueline_tupou@legis.state.ak.us

Hi,

We would like to offer comment about the library privacy bill (in favor of it). What is the status of the bill and to whom do we direct comment? We live just off of Spenard (Iowa Drive) in Anchorage. Can you help us to figure out who our representatives are? We just moved here, so we don't know who they are.

Thanks,
Rebecca Bleeker