

SB

269

ALASKA STATE LEGISLATURE



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

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 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.

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SENATOR LYDA GREEN SENATE DISTRICT G

MEMO

DATE: 02/11/2004

To: Members of the Senate Community and Regional Affairs Committee

From: Senator Lyda Green

RE: Senate Bill 269
"An Act relating to access to the library records of a child by a parent or guardian."

The following story was one of many that have been brought to me by constituents and have prompted me to introduce Senate Bill 269:

An eight year old boy put several books from the children's section of the library on hold. Later in the week the library called to inform the boy one of his books was available. The mother, who was taking the message, asked which book, to be able to relay the title to her son. The library informed her that because of privacy laws they would not reveal any information to the mother on the books that her eight year old was checking out.

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

Synopsis of testimony on S.B. 269
B.L. Shepherd on behalf of the Alaska Library Association

Lawmakers need to weigh the benefits of releasing a child's public library record to a parent or guardian vs the potential harm. Interference with a child's access to information could actually lead to harm:

What if a child is seeking information that might help them understand a situation that the parent or family doesn't want to talk about with the child?

What if a child seeks personal assurance or guidance pertaining to physical or psychological abuse and information in books or websites might assist that child in getting out of harm's way?

What if a child seeks understanding of a health condition in him/herself or a relative or friend?

Trust in public officials could be undermined, especially if a teen cannot expect confidentiality with respect to their records. A child's expectations with regard to sharing school records with a parent are different from their expectations for sharing library or other records kept by professionals and public officials.

The release of information from a library record about an address or domicile of a minor could put that child's safety or health in jeopardy.

AS28.15.151(c) DOT can refuse to release a driver's address to a parent, foster parent, or guardian

AS14.03.115 Schools can refuse to release a minor's address if that might threaten the health or safety of the child

Federal Educational Rights and Privacy Act (FERPA) confers rights on the student rather than the parent of a dependent student whenever that student is attending a postsecondary institution.

Children's Online Privacy Protection Act (COPPA) of 1998 recognizes the benefits of parental monitoring of a child's activities but sets the age of "under 13" as the age at which parental consent is required for the collection of personal information.

AS 09.55.590 deals with "Removal of disabilities of minority." Gives a 16 year old the right to petition a superior court for emancipation and confers the rights of adulthood exclusive of voting and alcohol.

The *Library Bill of Rights* is the American Library Association's statement with regard to policy guidelines, and the confidentiality of library records is part of every library's policies:

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

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

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

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SENATOR LYDA GREEN SENATE DISTRICT G

RECEIVED
2/1/04

MEMO

DATE: 2/02/2004

To: Senate Community and Regional Affairs
Senator Bert K. Stedman
Miles Baker

From: Senator Lyda Green
Jacqueline Tupou /6600

RE: Request for a hearing for SB269

I am requesting a hearing for SB269, Parental Access to Children's Library Records, in Senate Community and Regional Affairs. Thank you in advance for your time and attention in this matter.

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

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

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- ** 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.
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I appreciate this opportunity to express my opinion.

Sincerely,
Michael Catoggio
President, Alaska Library Association



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

Senator Bert K. Stedman, Chair

Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

February 11, 2004
1:30 – 3:30 PM
Fahrenkamp 203

AGENDA

I. Call To Order

II. New Business

SB 259 Parental Access to Children's Records

Sponsor Testimony:

Senator Lyda Green, Dist G (R-Wasilla)

Additional Written Testimony:

Mayor Dianne Keller, Mayor of Wasilla

Open Public Testimony:

III. Adjourn



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

Senator Bert K. Stedman, Chair

Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

*February 18, 2004
1:30 – 3:30 PM
Fahrenkamp 203*

AGENDA

I. Call To Order

II. Bills Previously Heard

SB 269 Parental Access to Children's Records

Sponsor Senator Lyda Green, Dist G (R-Wasilla)

III. New Business

SB 227 Municipal Initiative Referendum Elections

Sponsor Testimony:

Senator Gary Stevens, Dist R (R-Kodiak)

Public Testimony:

IV. Adjourn

Subject: SB 269 Info

Date: Tue, 17 Feb 2004 12:06:09 -0900

From: Miles Baker <Miles_Baker@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Yvonne Davis <Yvonne_Davis@legis.state.ak.us>,
Mary Jackson <Mary_Jackson@legis.state.ak.us>, Kurt Olson <Kurt_Olson@legis.state.ak.us>,
Shari Paul <Shari_Paul@legis.state.ak.us>, Doug Letch <Doug_Letch@legis.state.ak.us>,
Jesse Kiehl <Jesse_Kiehl@legis.state.ak.us>

Senator Green's office provided the following information as back-up to last week's C&RA Committee hearing on SB 269 - Parental Access to Children's Library records.

It is Senator Stedman's intent to pass this bill out of committee tomorrow afternoon. If you anticipate any additional questions/issues from your bosses on this bill, I'd appreciate a head's up so that we can have this addressed.

Cheers,

Miles

>From Jacqueline Tupou - Here are the ages of various states with laws regarding parental access to library records:

FL - age 15 and under
MI - age 17 and under
SD - age 17 and under
AL - age 18 and under
CO - age 20 and under
GA - age 17 and under
LA - age 17 and under
NM - age 17 and under
OH - age 17 and under
UT - age 17 and under
WV - age 17 and under
WY - age 17 and under



Alaska State Legislature

Senator Steedman	
Rec on:	2/19
Read	Copy
SENATOR	_____
MILES	_____
IAN	_____
DICK	_____
Note:	_____

Please enter into the record my testimony to the ___Senate Community and Regional Affairs _____

committee on _____ SB269 _____, dated 021804 _____.

Just a few quick thoughts on this proposed bill.

Who is to keep the lists and where are the lists to be kept? Are parents expecting a long list of titles that their child/children has/have checked out? If so, that may not be possible. Because the way materials are kept track of electronically, different circulation programs may limit those records to only current transactions. Also, different circulation programs have different capabilities.

If and when this bill is enacted, will parents have the right to request that such lists be kept and maintained. Again, such requests may not be possible because of first amendment rights as they apply to student patrons, limitations of circulation programs, and limitation on librarians time.

Do all libraries in AK have electronic circulation record keeping capability? If the library is using the old fashioned method of signing a card, who will locate the information, how will the information be recorded, etc. How and where will parent expect a list to be kept? Also, how will the librarian know to whom to release the information?

I realize this is bill is intended for public libraries but my comparison would be to my elementary school library in East Stroudsburg, PA. I had 700 students in grades K-4 and 15,000 books in my elementary school library. We checked out material by hand (students signed cards) until 1995. In a single year, there were over 27,000 times books were checked out. This circulation record does not include material read in-house. There was no way that I could locate or maintain a bibliography of titles children read. Also, I had no place to physically keep such records.

My last thought concerns the intent of the bill. Is the bill requesting that librarians act in as parental supervisors. I'm certain that parents/guardians do not want librarians acting in this capacity.

Just some knee jerk thoughts on this proposed bill.

Signed:

Kathleen B. Wartinbee, MILS

Testifier

Representing (optional)

PO BOX 157
Soldotna, AK 99669



State Of Alaska
Legislative Affairs Agency
Kenai LIO
145 Main St Lp, Ste 217
Kenai, AK 99611
907-283-2030

Date: _____ 2 -17-04 _____

Please accept the enclosed original(s) of written testimony for
the ___Senate Community & Regional Affairs_____
teleconference hearing that was scheduled on ___2-18-04_____

A copy of this testimony was transmitted to your committee
via fax on _____2-17-04_____.

Thank You,

_____Kenai LIO_____

THE
FOLLOWING
DOCUMENT(S)
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ORIGINAL
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U.S. Department of Education
 Improving educational excellence for all future generations



- 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.

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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Recursos en español



Related Topics

■ **No Related Topics**



-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.

Alaska Library Association
B.L. Shepherd, Government Relations Chair
February 18, 2004

It appears that the proposed amendment to AS 40.25.140 is intended to solve two problems:

- parents needing to pay fines for materials checked out by their children but not being aware of the items on loan
- parents wanting to pick up library materials for their children who cannot be present at the time of checkout

Last week, AkLA presented reasons for opposing the proposed wording of the amendment.

We have examined the statutes of **49** states with regard to the confidentiality of library records.

Only **8** states allow parental inspection of both school and public library records of their minor children: AL LA UT GA WV OH WY SD

1 state, in addition to AK, allows parental inspection of school library records of minor children. NM

40 states protect the confidentiality of library records for all users except:

23 states specify that a library patron may give permission for the release of his/her records;

6 states specify that a library may make public the information pertaining to overdue materials and **10** others specify such records may be disclosed "for the orderly management of the library" – probably referring to the status of overdue, lost, and damaged materials

In only **2** states, do the statutes specifically include academic and state libraries with parental rights.

In summary, approximately **85%** of states provide for the confidentiality of the library records of minors. And some of these (e.g. SC, AR) even specify that school library records are included among those records that are protected.

AkLA leadership has discussed the various issues involved – parental rights, children's rights, library staff rights, public property protection.

We agree that

- information in library records pertaining to overdue, damaged, or lost materials should be made available to parents, **provided that personal identifying information about the child is not released.**

- reserved materials for a child under 16 years of age may be released to a parent or guardian **provided that signed written consent of the child is presented at the time the release of materials is sought.**

These two provisions would:

- 1) permit parents to keep track of and pick up materials checked out by their children
- 2) protect minors who are responsible borrowers of library property and may need or want **privacy** regarding the library materials they use
- 3) protect personally identifiable information (e.g. domicile, telephone number) of a minor that should not be revealed without the express permission of that child (e.g. to a noncustodial parent who does not have legal visitation rights)
- 3) protect library staff who would have written proof of authorization to release materials to a parent in the event that a counterclaim is made

We also recommend eliminating mention of state and University of Alaska libraries in part (c) of the amendment. The *Federal Educational Rights and Privacy Act* confers privacy rights for records to the "student attending an institution of postsecondary education" and not his/her parents, even if that student is a dependent. So, an academic library could not release circulation records, except upon court order.

In summary:

We hope you will consider altering Bill 269 to include the provisions that AkLA proposes regarding

- overdue and lost materials records without personal identifying information
- release of materials with signed written consent of the child

and drop the reference to state and University library records.

Thank you for your attention.

TITLE 41. STATE GOVERNMENT
CHAPTER 8. ALABAMA PUBLIC LIBRARY SERVICE
ARTICLE 1 GENERAL PROVISIONS

§ 41-8-9. Definitions

As used in Section 41-8-10, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons utilizing particular books and any other library materials in any medium or format.

§ 41-8-10. Confidentiality of registration records

Registration, etc., records of public libraries to be confidential; right of parents to inspect records.

It is recognized that public library use by an individual should be of confidential nature. Any other provision of general, special or local law, rule or regulation to the contrary notwithstanding, the registration and circulation records and information concerning the use of the public, public school, college and university libraries of this state shall be confidential. Registration and circulation records shall not be open for inspection by, or otherwise available to, any agency or individual except for the following entities: (a) the library which manages the records; (b) the state education department for a library under its jurisdiction when it is necessary to assure the proper operation of such library; or (c) the state Public Library Service for a library under its jurisdiction when it is necessary to assure the proper operations of such library. Aggregate statistics shown from registration and circulation records, with all personal identification removed, may be released or used by a library for research and planning purposes. Provided however, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that pertain to his or her child.

TITLE 24. EVIDENCE

CHAPTER 9. WITNESSES GENERALLY

ARTICLE 2. PRIVILEGE

PART 2. MEDICAL INFORMATION

O.C.G. § 24-9-46

§ 24-9-46. Confidential nature of certain library records

(a) Circulation and similar records of a library which identify the user of library materials shall not be public records but shall be confidential and may not be disclosed except:

- (1) To members of the library staff in the ordinary course of business;
- (2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or
- (3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this Code section or any unauthorized disclosure of materials made confidential by that subsection (a) shall not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this Code section shall not be liable therefor.

02/03

LOUISIANA STATUTES

LOUISIANA REVISED STATUTES

TITLE 44. PUBLIC RECORDS AND RECORDERS

CHAPTER 1. PUBLIC RECORDS

PART I. SCOPE

La. R.S. 44:13

§ 13 Registration records and other records of use maintained by libraries

A. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any library which is in whole or in part supported by public funds, including the records of public, academic, school, and special libraries, and the State Library of Louisiana, indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group of individuals may not be disclosed except to a parent or custodian of a minor child seeking access to that child's records, to persons acting within the scope of their duties in the administration of the library, to persons authorized in writing by the individual or group of individuals to inspect such records, or by order of a court of law.

B. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any such library which are maintained for purposes of registration or for determining eligibility for the use of library services may not be disclosed except as provided in Subsection A of this Section.

C. No provision of this Section shall be so construed as to prohibit or hinder any library or any business office operating jointly with a library from collecting overdue books, documents, films, or other items and/or materials owned or otherwise belonging to such library, nor shall any provision of this Section be so construed as to prohibit or hinder any such library or business office from collecting fines on such overdue books, documents, films, or other items and/or materials.

D. No provision of this section shall be so construed as to prohibit or hinder any library or librarian from providing information to appropriate law enforcement officers investigating criminal activity in the library witnessed by an employee or patron of the library and reported by the administrative librarian to the appropriate law enforcement officials.

○

- (1) The term "criminal activity in the library", as used in this subsection, shall mean an activity which constitutes a crime, or otherwise constitutes an offense or violation of any law or ordinance, occurring:
 - (A) within any library building,
 - (B) upon any library property, OR
 - (C) near a library and the proximity of such activity to a library or library property constitutes an element of the offense.
- (2) The term "information", as used in this subsection shall include but not be limited to electronic data files, security surveillance video tapes, or other records or materials which may constitute evidence which would assist law enforcement officers in identifying the individual or group of individuals who may have committed criminal activity in the library.

WEST VIRGINIA CODE

CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC ESTABLISHMENTS;
MONUMENTS AND MEMORIALS; ROSTER OF SERVICEMEN; EDUCATIONAL BROADCASTING
AUTHORITY

ARTICLE 1. PUBLIC LIBRARIES

W. Va. Code § 10-1-22

§ 10-1-22. Confidential nature of certain library records

(a) Circulation and similar records of any public library in this state which identify the user of library materials are not public records but shall be confidential and may not be disclosed except:

- (1) To members of the library staff in the ordinary course of business;
- (2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or
- (3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this section or any unauthorized disclosure of materials made confidential by that subsection (a) does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this section is not liable therefor.

02/03

OHIO REVISED CODE

TITLE I [1] STATE GOVERNMENT

CHAPTER 149: DOCUMENTS, REPORTS, AND RECORDS

[RECORDS COMMISSIONS]

ORC Ann. 149.432

§ 149.432 Release of library record or patron information.

(A) As used in this section:

(1) "Library" means a library that is open to the public, including any of the following:

(a) A library that is maintained and regulated under section 715.13 of the Revised Code;

(b) A library that is created, maintained, and regulated under Chapter 3375. of the Revised Code;

(c) A library that is created and maintained by a public or private school, college, university, or other educational institution;

(d) A library that is created and maintained by a historical or charitable organization, institution, association, or society.

"Library" includes the members of the governing body and the employees of a library.

(2) "Library record" means a record in any form that is maintained by a library and that contains any of the following types of information:

(a) Information that the library requires an individual to provide in order to be eligible to use library services or borrow materials;

(b) Information that identifies an individual as having requested or obtained specific materials or materials on a particular subject;

(c) Information that is provided by an individual to assist a library staff member to answer a specific question or provide information on a particular subject.

"Library record" does not include information that does not identify any individual and that is retained for the purpose of studying or evaluating the use of a library and its materials and services.

(3) Subject to division (B)(5) of this section, "patron information" means personally identifiable information about an individual who has used any library service or borrowed any library materials.

(4) "Internet" has the same meaning as in section 3517.106 [3517.10.6] of the Revised Code.

(B) A library shall not release any library record or disclose any patron information except in the following situations:

(1) If a library record or patron information pertaining to a minor child is requested from a library by the minor child's parent, guardian, or custodian, the library shall make that record or information available to the parent, guardian, or custodian in accordance with division (B) of section 149.43 of the Revised Code.

(2) Library records or patron information shall be released in the following situations:

UTAH CODE
TITLE 63. STATE AFFAIRS IN GENERAL

CHAPTER 2. GOVERNMENT RECORDS ACCESS AND MANAGEMENT

§ 63-2-302. Private records

(1) The following records are private:

<...>

(c) records of publicly funded libraries that when examined alone or with other records identify a patron.

§ 63-2-202. Access to private, controlled, and protected documents.

(1) Upon request, a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency upon submission of a release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

WYOMING STATUTES

TITLE 16. CITY, COUNTY, STATE AND LOCAL POWERS

CHAPTER 4. UNIFORM MUNICIPAL FISCAL PROCEDURES; PUBLIC RECORDS, DOCUMENTS AND MEETINGS

ARTICLE 2. PUBLIC RECORDS

Wyo. Stat. § 16-4-203

§ 16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exception

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

(i) The inspection would be contrary to any state statute;

(ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; or

(iii) The inspection is prohibited by rules promulgated by the supreme court or by the order of any court of record.

(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(i) Records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, county attorney, city attorney, the attorney general, the state auditor, police department or any investigatory files compiled for any other law enforcement or prosecution purposes;

(ii) Test questions, scoring keys and other examination data pertaining to administration of a licensing examination and examination for employment or academic examination. Written promotional examinations and the scores or results thereof shall be available for inspection, but not copying or reproduction, by the person in interest after the examination has been conducted and graded;

(iii) The specific details of bona fide research projects being conducted by a state institution;

(iv) Except as otherwise provided by Wyoming statutes or for the owner of the property, the contents of real estate appraisals made for the state or a political subdivision thereof, relative to the acquisition of property or any interest in property for public use, until such time as title of the property or property interest has passed to the state or political subdivision. The contents of the appraisal shall be available to the owner of the property or property interest at any time;

(v) Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the agency.

(c) If the right of inspection of any record falling within any of the classifications listed in this section is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it may be allowed to all news media.

(d) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

<...>

over

Wyoming

(ix) Library circulation and registration records except as required for administration of the library or except as requested by a custodial parent or guardian to inspect the records of his minor child.

(e) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial. The statement shall cite the law or regulation under which access is denied and shall be furnished to the applicant.

(f) Any person denied the right to inspect any record covered by this act may apply to the district court of the district wherein the record is found for any order directing the custodian of the record to show cause why he should not permit the inspection of the record.

(g) If, in the opinion of the official custodian of any public record, disclosure of the contents of the record would do substantial injury to the public interest, notwithstanding the fact that the record might otherwise be available to public inspection, he may apply to the district court of the district in which the record is located for an order permitting him to restrict disclosure. After hearing, the court may issue an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard.

(h) Notwithstanding any other provision of this section, the following applies to the Wyoming natural diversity database located at the University of Wyoming and any report prepared by the custodian from that database:

(i) The custodian may charge a reasonable fee for searching the database and preparing a report from that database information. The interpretation of the database in a report shall not contain recommendations for restrictions on any public or private land use;

(ii) The custodian shall allow the inspection of all records in the database at a level of spatial precision equal to the township, but at no more precise level;

(iii) Research reports prepared by the custodian funded completely from nonstate sources are subject to paragraph (b)(iii) of this section;

(iv) Any record contained in the database pertaining to private land shall not be released by the University of Wyoming without the prior written consent of the landowner. Nothing in this paragraph prohibits the release of any information which would otherwise be available from any other information source available to the public if the original source is cited.

FLORIDA STATUTES

TITLE XVIII PUBLIC LANDS AND PROPERTY

CHAPTER 257 PUBLIC LIBRARIES AND STATE ARCHIVES

Fla. Stat. § 257.261

257.261 Library registration and circulation records.--

(1) All registration and circulation records of every public library, except statistical reports of registration and circulation, are confidential and exempt from the provisions of s. 119.07(1) and from s. 24(a) of Art. I of the State Constitution.

(2) As used in this section, the term "registration records" includes any information that a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information that identifies the patrons who borrow particular books and other materials.

(3) (a) Except in accordance with a proper judicial order, a person may not make known in any manner any information contained in records made confidential and exempt by this section, except as otherwise provided in this section.

(b) A library or any business operating jointly with the library may, only for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials owned or otherwise belonging to the library, disclose information made confidential and exempt by this section to the following:

1. The library patron named in the records;
2. In the case of a library patron less than 16 years of age, the parent or guardian of that patron named in the records;
3. Any entity that collects fines on behalf of a library, unless the patron is less than 16 years of age, in which case only information identifying the patron's parent or guardian may be released;
4. Municipal or county law enforcement officials, unless the patron is 16 years of age, in which case only information identifying the patron's parent or guardian may be released; or
5. Judicial officials.

(4) Any person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

NEW MEXICO

CHAPTER 18. LIBRARIES AND MUSEUMS

ARTICLE 9. LIBRARY PRIVACY

N.M. Stat. Ann. § 18-9-1

§ 18-9-1. Short title

This act [18-9-1 to 18-9-6 NMSA 1978] may be cited as the "Library Privacy Act".

§ 18-9-2. Purpose

The purpose of the Library Privacy Act [18-9-1 to 18-9-6 NMSA 1978] is to preserve the intellectual freedom guaranteed by Sections 4 and 17 of Article 2 of the constitution of New Mexico by providing privacy for users of the public libraries of the state with respect to the library materials that they wish to use.

§ 18-9-3. Definitions

As used in the Library Privacy Act [18-9-1 to 18-9-6 NMSA 1978]:

A. "library" includes any library receiving public funds, any library that is a state agency and any library established by the state, an instrumentality of the state, a local government, district or authority, whether or not that library is regularly open to the public; and

B. "patron record" means any document, record or other method of storing information retained by a library that identifies, or when combined with other available information identifies, a person as a patron of the library or that indicates use or request of materials from the library. "Patron record" includes patron registration information and circulation information that identifies specific patrons.

§ 18-9-4. Release of patron records prohibited

Patron records shall not be disclosed or released to any person not a member of the library staff in the performance of his duties, except upon written consent of the person identified in the record, or except upon court order issued to the library. The library shall have the right to be represented by counsel at any hearing on disclosure or release of its patron records.

02/03

§ 18-9-5. Exceptions

The prohibition on the release or disclosure of patron records in Section 4 [18-9-4 NMSA 1978] of the Library Privacy Act shall not apply to overdue notices or to the release or disclosure by school libraries to the legal guardian of the patron records of unemancipated minors or legally incapacitated persons.

HISTORY: Laws 1989, ch. 151, § 5.

§ 18-9-6. Violations; civil liability

Any person who violates Section 4 [18-9-4 NMSA 1978] of the Library Privacy Act shall be subject to civil liability to the person identified in the released records for damages and costs of the action as determined by the court.

02/03

SOUTH DAKOTA CODIFIED LAWS

§ 14-2-51. Confidential library records

All public library records containing personally identifiable information are confidential. Any information contained in public library records may not be released except by court order or upon request of a parent of a child who is under eighteen years of age. As used in this section, "personally identifiable" means any information a library maintains that would identify a patron. Acts by library officers or employees in maintaining a check out system are not violations of this section.

02/03

OKLAHOMA STATUTES

TITLE 65. PUBLIC LIBRARIES

CHAPTER A. OKLAHOMA LIBRARY CODE

ARTICLE 1. LEGISLATIVE INTENT AND GENERAL PROVISIONS

Okl. St. § 65-1-105

§ 65-1-105. Disclosure of records

A. Any library which is in whole or in part supported by public funds including but not limited to public, academic, school or special libraries, and having records indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group shall not disclose such records to any person except to:

1. Persons acting within the scope of their duties in the administration of the library;
2. Persons authorized to inspect such records, in writing, by the individual or group; or
3. By order of a court of law.

B. The requirements of this section shall not prohibit middle and elementary school libraries from maintaining a system of records that identifies the individual or group to whom library materials have been loaned even if such system permits a determination, independent of any disclosure of such information by the library, that documents or materials have been loaned to an individual or group.

02/03

MINNESOTA STATUTES

Data Practices

CHAPTER 13 GOVERNMENT DATA PRACTICES

LIBRARY DATA

Minn. Stat. § 13.40

13.40 Library and historical data

Subdivision 1. Records subject to this chapter. (a) For purposes of this section, "historical records repository" means an archives or manuscript repository operated by any state agency, statewide system, or political subdivision whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).

(b) Data collected, maintained, used, or disseminated by a library or historical records repository operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. Private data; library borrowers. (a) Except as provided in paragraph (b), the following data maintained by a library are private data on individuals and may not be disclosed for other than library purposes except pursuant to a court order:

(1) data that link a library patron's name with materials requested or borrowed by the patron or that link a patron's name with a specific subject about which the patron has requested information or materials; or

(2) data in applications for borrower cards, other than the name of the borrower.

(b) A library may release reserved materials to a family member or other person who resides with a library patron and who is picking up the material on behalf of the patron. A patron may request that reserved materials be released only to the patron.

Subd. 3. Nongovernmental data. Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, statewide system, or political subdivision are not government data. These data are accessible to the public unless:

(1) the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or

(2) access would significantly endanger the physical or organizational integrity of the data.

CODE OF LAWS OF SOUTH CAROLINA

TITLE 60. LIBRARIES, ARCHIVES, MUSEUMS AND ARTS

CHAPTER 4. CONFIDENTIAL LIBRARY RECORDS

§ 60-4-10. Records identifying library patrons as confidential information; disclosure.

included } Records related to registration and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, are confidential information.

Records which by themselves or when examined with other public records would reveal the identity of the library patron checking out or requesting an item from the library or using other library services are confidential information.

The confidential records do not include nonidentifying administrative and statistical reports of registration and circulation.

The confidential records may not be disclosed except to persons acting within the scope of their duties in the administration of the library or library system or persons authorized by the library patron to inspect his records, or in accordance with proper judicial order upon a finding that the disclosure of the records is necessary to protect public safety, to prosecute a crime, or upon showing of good cause before the presiding Judge in a civil matter.

§ 60-4-20. Definitions.

As used in this chapter, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons borrowing particular books and other materials.

§ 60-4-30. Penalties.

Any person violating the provisions of § 60-4-10 must upon conviction be fined not more than five hundred dollars or imprisoned for not more than thirty days for the first offense, must be fined not more than one thousand dollars or imprisoned for not more than sixty days for the second offense, and must be fined not more than two thousand dollars or imprisoned for not more than ninety days for the third or subsequent offense.

TITLE 30. PUBLIC RECORDS

CHAPTER 4. FREEDOM OF INFORMATION ACT

§ 30-4-10. Short Title

This chapter shall be known and cited as the "Freedom of Information Act".

§ 30-4-20. Definitions

(a) "Public body" means any department of the State, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds,

TITLE 13. LIBRARIES, ARCHIVES, AND CULTURAL RESOURCES

CHAPTER 2. LIBRARIES

SUBCHAPTER 7. CONFIDENTIALITY OF PATRONS' RECORDS

A.C.A. § 13-2-701

§ 13-2-701. Definitions

(a) "Patron" means any individual who requests, uses, or receives services, books or other materials from a library.

(b) "Confidential library records" means documents or information in any format retained in a library that identify a patron as having requested, used, or obtained specific materials, including, but not limited to, circulation of library books, materials, computer database searches, interlibrary loan transactions, reference queries, patent searches, requests for photocopies of library materials, title reserve requests, or the use of audiovisual materials, films, or records.

HISTORY: Acts 1989, No. 903, § 1.

§ 13-2-702. Penalty

(a) Any person who knowingly violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200) or thirty (30) days in jail, or both, or a sentence of appropriate public service or education, or both.

(b) No liability shall result from any lawful disclosure permitted by this subchapter.

(c) No action may be brought under this subchapter unless such action is begun within two (2) years from the date of the act complained of or the date of discovery.

HISTORY: Acts 1989, No. 903, § 2.

§ 13-2-703. Disclosure prohibited

protected
(a) Library records which contain names or other personally identifying details regarding the patrons of public, school, academic, and special libraries and library systems supported in whole or in part by public funds shall be confidential and shall not be disclosed except as permitted by this subchapter.

(b) Public libraries shall use an automated or Gaylord-type circulation system that does not identify a patron with circulated materials after materials are returned.

HISTORY: Acts 1989, No. 903, § 2.

§ 13-2-704. Disclosure permitted

A library may disclose personally identifiable information concerning any patron:

(1) To the patron;

(2) To any person with the informed, written consent of the patron given at the time the disclosure is sought; or

State Statutes or Opinions
Addressing Confidentiality of Library Records
Reviewed and Updated May 2001

<u>State and Code</u>	<u>Exceptions</u>	<u>Types of Libraries</u>	<u>Category</u>
Alabama §41-8-10	D G N O (note 1)	C	confidential
Alaska §09.25.140	A D Q (note 2)	D	confidential
Arizona §41-1354	A B C F (note 2)	B	private
Arkansas §§13-2-701 to 13-2-706	C P O	G	confidential
California §6254j	E	M	exempt from open records law
Colorado § 24-90-119	A B C F (note #2)	B	private
Connecticut § 11-25		A	confidential
Delaware 29 DCA §10002(d)(12)		A	exempt from open records law
District of Columbia § 37-106.2	A C F (note #3)	E	confidential
Florida §257.261	D A O (note #1) 02/04	A	confidential
Georgia §24-9-46	A C D G (note #2)	M	confidential
Hawaii Attorney General's Opinion			exempt from open records law
Idaho §9-340E	(note #2)	M	exempt from open records law
Illinois 75 ILCS 70/1 to 75 ILCS 70/ 2	A O (note #1)	F	confidential

Indiana 5-14-3-4(16)	A B (note #1)	M	exempt from open records law
Iowa §22.7(13)	K	M	exempt from open records law
Kentucky Attorney General Opinion			exempt from open record law
Kansas §45-221(23)	B (note #1)	M	exempt from open records law
Louisiana §44:13	A C D G (note #1)	B G	confidential
Maine 27 MRS §121	A C	H	confidential
Maryland §23-107, §10-616(e) & (f)	B	C	exempt from open records law
Massachusetts Ch. 78, §7	(note #1)	A	exempt from open records law
Michigan §397.601	C H O	I	confidential (note #13)
Minnesota §13.40	A	A	private
Mississippi §39-3-365 to 39-3-369	A C E O	M	confidential
Missouri §§182.815 to 182.817	A C I O (note #1)	I	exempt from open records law
Montana §§22-1-1101 to 22-1-1103	A C E J O (note #1)	I	confidential
Nebraska 84-712.05	L (note 2)	B	confidential
Nevada §239.013	A I	J	exempt from open records law
New Hampshire RSA 91-A:5(iv) and	A B C F O	M	exempt from open records law

201:D:11

New Jersey 18A:73-43.2	A C F (note #1)	K	confidential
New Mexico §18-9-1	A C G Q (note #1, 5)	N	private
New York §4509	A B C F (note #4)	C	confidential
North Carolina 125-19	A B C F O	I	confidential
North Dakota §40-38-12	A	B	exempt from open records law
Ohio §149.43.2	A C D G O. (note #14)	P	confidential
Oklahoma 65 OSA §1-105	A C G (note #6)	B G	exempt from open records law
Oregon §192.502(22)		M	exempt from open records law
Pennsylvania 24 PSA §4428	A (note 7)	D	confidential
Rhode Island §38-2-2(21)	(note #2)	A M	exempt from open records law
South Carolina 60-4-10	A C G I O (notes 1, 2, 11)	A B	confidential
South Dakota 14-2-51	A D G (note #1)	A B	confidential
Tennessee 10 TCA 8-101	A C E O (note #2)	I	confidential
Texas §552.124	A B F I	B	confidential; exempt from open records law

Utah §63-2-302	(note #1)	B	private
Vermont 1 VSA §317(b)(19)	(note #1)	O	exempt from open records law
Virginia §2.1-342.01(A)(10)	(note #1)	M	exempt from open records law
Washington 42.17.310(1)(L)	O H (notes #2, 9)	M	exempt from open records law
West Virginia §10-1-22	A C F G (note #12)	A	confidential
Wisconsin §43.30	A C G (note #10)	B	confidential
Wyoming §16-4-203(d)(ix)	B D G	A	exempt from open records law

MISCELLANEOUS NOTES

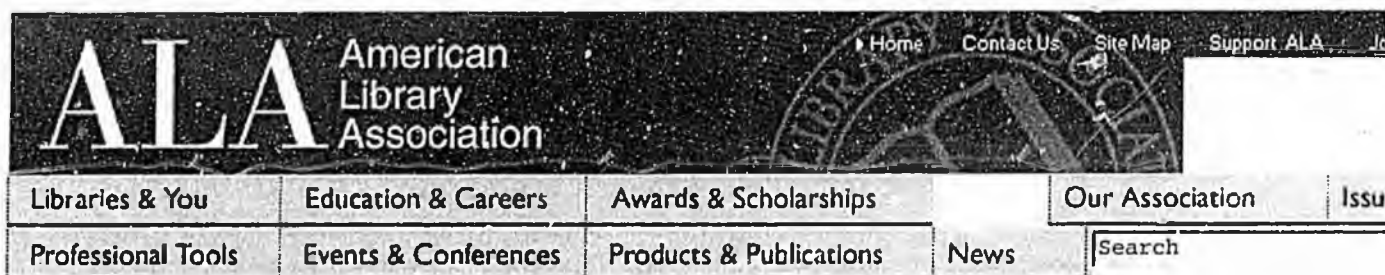
1. Registration records, or information which libraries require from a patron who wishes to borrow materials, also are confidential, even if they do not connect a patron with specific materials.
2. Records that identify a patron as "using the library" are confidential
3. The District of Columbia has an established procedure for the defense of confidentiality of library records. The patron whose records have been requested may file a motion in the Superior court of the District of Columbia requesting that the records remain confidential. Once the library receives a subpoena for library records, it must send a copy to all affected library patrons, including a statement of the patron's rights and the reasons a court order to disclose the records might be granted.
4. In New York, confidential records include, but are not limited to, "records related to the circulation of library material, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio visual materials, films, or records.
5. In New Mexico, the library has the right to be represented by counsel at any hearing on disclosure of patron records.
6. In Oklahoma, middle and elementary school libraries are not prohibited from maintaining a system of records identifying individuals or groups to whom materials have been loaned, even if such a system permits a determination, independent of disclosure, that such materials or documents have been loaned to any individual or group.
7. In Pennsylvania, records may be released only by court order in a criminal case.
8. In Virginia, the statute reads that records "may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law."
9. In Washington State, the statute permits disclosure if a court, after a hearing with notice to every party in interest, determines that the exemption of the record "is clearly unnecessary to protect any individual's right of privacy or any vital government function."
10. In Wisconsin, a library may disclose an individual's identity to another library for purposes of borrowing materials if the library to whom the information is disclosed meets one of three conditions.
11. South Carolina's statute requires only "good cause" for disclosure in civil matters.
12. West Virginia's statute reads "ordinary course of business."
13. Michigan's statute has been amended to add a section mandating that any library offering Internet access must provide at least one terminal, blocking access to obscene, sexually explicit, or harmful to minors material, and implement a policy to prevent minors from accessing obscene, sexually explicit, or harmful to minors materials.
14. Ohio's statute permits release of information to a law enforcement officer who is acting in the scope of the officer's law enforcement duties and who is investigating a matter involving public safety in exigent circumstances. It also permits the release of records documenting improper Internet usage, as long as patron information is removed from those records.

EXCEPTIONS TO NON-DISCLOSURE

- A - pursuant to a subpoena or court order
- B - otherwise required by law
- C -- by the written consent of the patron
- D -- requested by the parent or guardian of minor child
- E -- records regarding borrower fines and overdue notices
- F -- subject to the reasonable or proper operation of the library
- G - to persons acting within the scope of their duties in the administration of the library
- H - court order and patron given notice of the request and the opportunity to act on it
- I - necessary to protect public safety or to prosecute a crime
- J - merits of public disclosure clearly exceed the demand for individual privacy
- K - released to a criminal justice agency only pursuant to investigation of a particular person or organization suspected of committing a known crime, or released upon judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling
- L - publicly disclosed in open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties
- M - the public interest requires disclosure in the particular interest
- N - state education department or state public library service for a library under its jurisdiction when it is necessary to assure the proper operation of the library
- O - statistics with all personal identification removed may be used for research or planning purposes or studying circulation in general
- P - to a law enforcement agency or civil court pursuant to a search warrant.
- Q - by school libraries to a parent or legal guardian of an emancipated minor child or legally incapacitated person

TYPES OF LIBRARIES MENTIONED

- A - all public libraries
- B - a library or library system which, in whole or in part is supported by public funds
- C - public, free association, public school, college and university libraries and library systems
- D - libraries operated by the state, a municipality, or a public school, including the state university
- E - only the state public library
- F - any public library or library of an educational, historical, or eleemosynary institution
- G - public, academic, school, special libraries and state libraries
- H - any public municipal library, including state libraries
- I - a library which is established by the state; a county, city township, village, school district, or other local unit of government or authority or combination of local units of governments and authorities; a community college district; a college or university; or any private library open to the public
- J - a public library or other library
- K - a library maintained by any state or local government agency, school, college, or industrial, commercial, or other special group, association or agency whether public or private
- L - public, private, school, college, technical college, university, and state institutional libraries and library systems
- M - any library
- N - any library receiving public funds, any library that is a state agency and any library established by the state, an instrumentality of the state, a local government, district or authority, whether or not that library is regularly open to the public
- O - any library established and maintained by a municipality or by a private association, corporation, or agency to provide library services free of charge to all residents of a municipality or a community and which receives its annual financial support in whole or in part from public funds
- P - Any library that is open to the public, including a library that is maintained and regulated by a municipality, a library that is created, maintained, and regulated by the state library board; a library that is created and maintained by a public or private school, college, university, or other educational institution; or a library that is created and maintained by a historical or charitable organization, institution, association, or society. "Library" includes the members of the governing body and the employees of a library.



Home Intellectual Freedom IF Groups and Committees State IFC Chairs State Action

Intellectual Freedom

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State Privacy Laws Regarding Library Records

The American Library Association encourages all librarians, particularly those in public libraries, to work with their local legal counsel so they understand state confidentiality laws so they may respond to any requests from law enforcement. Forty-eight of 50 state such laws on the books, but the language varies from state to state. The ALA recommends that each library adopt a policy that specifically recognizes the confidentiality of information sought or received materials consulted borrowed or acquired by a library user. These materials may include database search records, circulation records, interlibrary loan records and other personally identifiable user materials, facilities, programs or services, such as reference interviews. Libraries are advised to rely on existing laws to control behavior that involves public safety or criminal behavior.

Libraries should have in place procedures for working with law enforcement officers when a subpoena or other legal order for records is made. Libraries will cooperate expeditiously with law enforcement within the framework of state law.

For information on confidentiality policies, see "**Developing a Confidentiality Policy**," pp. 347-355, **Intellectual Freedom Manual**, sixth edition, 2001. This chapter discusses confidentiality under the law, state law protection of library records, what librarians should be writing, adopting, and implementing a confidentiality policy.

See also ALA's existing **policies on privacy and confidentiality**, **Privacy: An Interpretation of the Library Rights**, and a **Q&A on privacy and confidentiality**.

Below are the links to the state privacy laws regarding library records.



Links to non-ALA sites have been provided because they may have information of interest. Neither the American Office for Intellectual Freedom necessarily endorses the expressed or the facts presented on these sites; and furthermore, ALA and OIF do not endorse any commercial products that may be advertised or available on these sites.

Related Files

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23-LS1457U
Mischel
2/18/04

CS FOR SENATE BILL NO. 269()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL
FOR AN ACT ENTITLED

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

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 40.25.140 is amended to read:

5 Sec. 40.25.140. Confidentiality of library records. (a) Except as provided
6 in (b) of this section, the names, addresses, or other personal identifying information
7 of people who have used materials made available to the public by a library shall be
8 kept confidential, except upon court order, and are not subject to inspection under
9 AS 40.25.110 or 40.25.120. [THIS SECTION APPLIES TO LIBRARIES
10 OPERATED BY THE STATE, A MUNICIPALITY, OR A PUBLIC SCHOOL,
11 INCLUDING THE UNIVERSITY OF ALASKA.]

12 (b) Records of a [PUBLIC ELEMENTARY OR SECONDARY SCHOOL]
13 library identifying a [MINOR] child under 18 years of age shall be made available on
14 request to a parent or guardian of that child.

WORK DRAFT

WORK DRAFT

23-LS1457U

1
2
3
4

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

(c) This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska, and by a public library nonprofit corporation.

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/16/04

FURTHER: Health, Education and
 Social Services

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 2/18/04

Community and Regional Affairs Committee considered **SENATE BILL NO. 269**

SB 269 PARENT ACCESS TO CHILD'S LIBRARY RECORDS

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

and recommends:

be replaced with _____ CS SB269 (CRA)

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title

adopt previous _____ CS _____ (CS - forthcoming)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	2/6/04			✓	
EED	2/17/04			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>				✓
<i>Thomas W. Wagon</i>	✓			
<i>[Signature]</i>				X
<i>[Signature]</i>		✓		
CHAIR: <i>[Signature]</i>	✓			

23-LS1457AH
Mischel
2/9/04

CS FOR SENATE BILL NO. 269()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

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

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 40.25.140 is amended to read:

5 **Sec. 40.25.140. Confidentiality of library records.** (a) Except as provided
6 in (b) of this section, the names, addresses, or other personal identifying information
7 of people who have used materials made available to the public by a library shall be
8 kept confidential, except upon court order, and are not subject to inspection under
9 AS 40.25.110 or 40.25.120. [THIS SECTION APPLIES TO LIBRARIES
10 OPERATED BY THE STATE, A MUNICIPALITY, OR A PUBLIC SCHOOL,
11 INCLUDING THE UNIVERSITY OF ALASKA.]

12 (b) Records of a [PUBLIC ELEMENTARY OR SECONDARY SCHOOL]
13 library identifying a [MINOR] child under 17 years of age shall be made available on
14 request to a parent or guardian of that child.

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

2 (c) This section applies to libraries operated by the state, a municipality, or a
3 public school, including the University of Alaska, and by a public library nonprofit
4 corporation.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB269-LAW-L&SA-2-6-21
Bill Version: SB269
() Publish Date: _____

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 Ccponent 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: 1
 Bill Version: SB 269
 () Publish Date: _____

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 Component No. _____
 Requester _____

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)*

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