

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

MEMO

DATE: 2/10/2004

To: Senate HESS
Senator Fred Dyson
Attn: Jason Hooley

From: Senator Lyda Green
Jacqueline Tupou

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

I am requesting a hearing for Senate Bill 269, "An Act relating to access to the library records of a child by a parent or guardian," in Senate Health Education and Social Services. I have attached copies of the bill, sponsor statement, 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

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SENATOR LYDA GREEN SENATE DISTRICT G

Sponsor Statement of Senate Bill 269

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

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

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

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

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						
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CHANGE IN REVENUES ()						
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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



U.S. Department of Education
 Ensuring educational excellence for all American learners



- Students
- Parents
- Teachers
- Administrators



Policy

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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SENATOR LYDA GREEN SENATE DISTRICT G

MEMO

DATE: 2/20/04

To: Members of the Senate HESS 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.

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

23 States provide for public library records to be confidential, but have no laws specifically addressing the privacy of children's records from their parents. Therefore it would be up to the courts to weigh the parental rights versus the right of privacy. In similar circumstances, there are 4 instances of case law in favor of parental rights.

-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: 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: 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

SENATE COMMITTEE REPORT

DATE: 2/19/04

FURTHER:

DATE TURNED
IN TO OFFICE: 2.23.04

Health, Education and Social Services 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 _____ (_____)
- adopt previous _____ CS SB 269 (CRA)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
House Bill:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

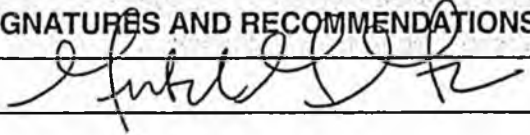
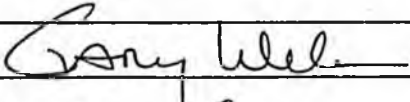
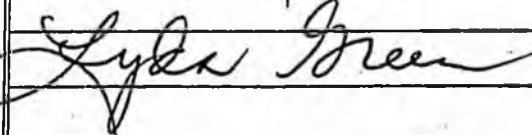
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
LAW	2/6		X		1
EED	2/17		X		2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No R.C	AMEND
			✓	
	✓			
	✓			
CHAIR:				

Vice
Chair