

**Committee Name:**  
**Senate Committee –**  
**Judiciary, Corrections and Privacy**  
**(SC–JCP)**

**Appointments**

03hr\_SC–JCP\_Appt\_pt00

**Committee Hearings**

03hr\_SC–JCP\_CH\_pt00

**Committee Reports**

03hr\_SC–JCP\_CR\_pt00

**Clearinghouse Rules**

03hr\_SC–JCP\_CRule\_03–

**Executive Sessions**

03hr\_SC–JCP\_ES\_pt00

# Hearing Records

03hr\_ab0000

## 03hr\_sb0128

**Misc.**

03hr\_SC–JCP\_Misc\_pt00

**Record of Committee Proceedings**

03hr\_SC–JCP\_RCP\_pt00

**Vote Record**

**Committee on Judiciary, Corrections and Privacy**

Date: 6-10

Moved by: F. Fuc

Seconded by: Z. Fuc

AB \_\_\_\_\_ SB 128 Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement
  - Introduction       Rejection       Tabling       Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Senator David Zien	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Scott Fitzgerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Cathy Stepp	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gary George	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 3 2 \_\_\_\_\_  
*Hold Open*



## **Joe Leibham**

**State Senator**  
9th State Senate District

June 10, 2003

### **Testimony on Senate Bill 128**

*Senate Committee on Judiciary, Corrections and Privacy*

**Thank you Chairman Zien and Committee Members. I appreciate your willingness to hold a public hearing on SB 128.**

**This bill was first introduced by Representative Sheryl Albers as Assembly Bill 196 in March of 2001. AB 196 passed the Assembly in an overwhelmingly bipartisan vote (77-7, 5 not voting) in May 2001. The bill was referred to a Senate Committee but never received a public hearing. The fact I am testifying before you today as the lead author of the companion bill to AB 169, the bill introduced this session by Representative Albers, sends a strong signal that the State Senate is interested in legislation that promotes parental involvement and responsibility in the lives of their children and I thank you for that interest.**

**This bill is necessary to improve upon the positive environment we have throughout the state of Wisconsin that allows parents the opportunity to play a critical role in their child's life at a time when guidance is vitally important – the teenage years.**

**Representative Albers first learned of this issue when two parents in her district, discovered – purely by accident – that their son was checking out "Parental Advisory Explicit Content" CD's through the library's "link" system – a network that allows people to borrow library materials from any of the linked locations. When the parents approached the community's public library board, they explained that they do not carry such CD's. The board also informed the parents, however, that state law forbids them from divulging information relating to children's library activities without the child's consent - even if the librarian knows that the materials or services used may be harmful to the child's welfare.**

**We expect a great deal from parents in our society. In fact, we expect so much that in many instances we hold parents liable for the harmful activities of their children. The ability for parents to know what their children are reading, learning, listening to, watching on television, and downloading from the Internet is of great importance if we are to protect them from harmful materials and guide them appropriately.**

**Parents in Wisconsin have the right to obtain information about the instruction their children receive in our schools. They have the right to review medical records and make decisions regarding the physical health of their children. They can decide what type of movies their children see, what toys they play with, and who they play with. They decide where they visit, what they watch on television, and what books they buy. Combined with effective communication with teachers and other trusted adults, parents are able to provide the best possible upbringing for their child.**

This legislation allows parents to request and receive information on the library activities of their children under the age of 16. It neither asks nor requires librarians to take affirmative steps to notify parents of what children are checking out or using. It does not require librarians to monitor a child's every activity. It merely requires them to make available to parents those records of a child's activity that they would normally be keeping anyway. This activity can almost certainly be accommodated by library employees within the scope of their existing duties and would not require any additional expenditure, except perhaps for a few photocopies. This access will help our parents meet the responsibilities we as a society hold them to. Most importantly, it will protect our children from harmful or age-inappropriate materials.

I am fully aware that each day it becomes a more difficult battle to shelter children from destructive images or words. In a world where knowledge is becoming more accessible, and where a child is often more technologically savvy than his parents, it's an uphill battle. Parents need all the tools and all the help they can get right now.

Some people will argue that the bill should be modified to lower the age that parents can view their child's library records and permit parents to view records only when library materials are lost or overdue. I believe, however, that it is reasonable to give parents the ability to monitor and guide their child through the age of 16, the same age we trust our youth to drive. In addition, limiting parental access to library records only when the materials are lost or overdue is not an adequate compromise, as it does not fully address the intent of the bill. While parents could teach their children important lessons about organization and tardiness, far greater problems can be prevented if parents have the necessary tools to appropriately intervene and have constructive conversations with them.

Others suggest that libraries have already taken steps to deal with this issue at a local level and that the law would have minimal affect. In some instances it may be true that certain libraries have found the appropriate balance for parents to have access to their child's records. However, as was the case with Representative Alber's constituent, not all libraries have taken this action. I believe it is important that we promote parental involvement in children's lives throughout the entire state and not simply through a mix of local ordinances.

In closing, I believe it is vital that we, as a society, promote an environment where parents have an opportunity to understand what is going on in the lives and minds of their children to help guide them through their developing years so they will become responsible and respectable adults.

Thank you again for your time and attention, Mr. Chairman and Committee Members, and for your interest in conducting a public hearing on SB 128.



State of Wisconsin

COUNCIL ON LIBRARY AND NETWORK DEVELOPMENT

June 10, 2003

At its meeting on May 2, the Council on Library and Network Development (COLAND) discussed Assembly Bill 169 (and the companion Senate Bill 128). As currently drafted, these bills would require that every publicly funded library, upon the request of a parent or guardian of a child under the age of 16, disclose to the parent or guardian all library records relating to the use of the library's documents or other materials, resources, or services by the child.

COLAND voted (14-1) to recommend amendment of the bill to apply to children under the age of 12. COLAND members thoroughly discussed the many implications of this issue, and a majority felt that age 12 and under was an appropriate age for application of this proposed law.

As you may know, COLAND is a statutory organization appointed by the Governor to advise the State Superintendent on the state's programs for library development, interlibrary cooperation, and network development. (A list of COLAND members is attached.)

Thank you for consideration of this COLAND recommendation.

Sincerely,

A handwritten signature in cursive script that reads "John Reid".

John Reid, Chair  
Council on Library and Network Development

COLAND – Council on Library and Network Development  
Member List  
(January 2003)

<p>Mary Bayorgeon (Director of Library Services, Affinity Health System) Appleton Email <a href="mailto:mbayorgeon@affinityhealth.org">mbayorgeon@affinityhealth.org</a> Term expires 7-01-05</p>	<p>Kate Bugher (Librarian, Memorial High School) Madison Email: <a href="mailto:kbugher@madison.k12.wi.us">kbugher@madison.k12.wi.us</a> Term expires 7-01-04</p>
<p>Kristin M. Crooks* Madison (no email) Term expires 7-01-04</p>	<p>Eugene Engeldinger (Vice President, Academic Information Services, Carthage College) Kenosha Email: <a href="mailto:eengeldinger@carthage.edu">eengeldinger@carthage.edu</a> Term expires 7-01-03</p>
<p>Miriam Erickson* Fish Creek Email: <a href="mailto:mmerricks@itol.com">mmerricks@itol.com</a> Term expires 7-01-03</p>	<p>John Foster* Kaukauna Email: <a href="mailto:fosterj@kaukauna.k12.wi.us">fosterj@kaukauna.k12.wi.us</a> Term expires 7-01-05</p>
<p>Sherry Freiberg Eldorado Email: <a href="mailto:freibs@charter.net">freibs@charter.net</a> Term expires 7-01-04</p>	<p>David Huebsch* Onalaska Email <a href="mailto:ssordave@aol.com">ssordave@aol.com</a> Term expires 7-01-03</p>
<p>Pat LaViolette (Director, Brown County Library) Green Bay Email <a href="mailto:laviotte_cp@co.brown.wi.us">laviotte_cp@co.brown.wi.us</a> Term expires 7-01-05</p>	<p>Barbara Manthei* West Salem Email: <a href="mailto:dbmanthei@centurytel.net">dbmanthei@centurytel.net</a> Term expires 7-01-03</p>
<p>Janean Miller (Director, Boscobel Public Library) Boscobel Email: <a href="mailto:jmiller2@swls.org">jmiller2@swls.org</a> Term expires 7-01-03</p>	<p>Milton Mitchell Chippewa Falls Email: <a href="mailto:kilbridge@discover-net.net">kilbridge@discover-net.net</a> Email Nov-April: <a href="mailto:miltmitchell@earthlink.net">miltmitchell@earthlink.net</a> Term expires 7-01-04</p>
<p>Eugene Neyhart* Sussex Email: <a href="mailto:geneneyhart3@ameritech.net">geneneyhart3@ameritech.net</a> Term expires 7-01-05</p>	<p>Kathy Pletcher (Associate Provost for Information Services) UW-Green Bay Green Bay Email: <a href="mailto:pletchek@uwgb.edu">pletchek@uwgb.edu</a> Term expires 7-01-04</p>
<p>John Reid* West Bend Email: <a href="mailto:jreid@hnet.net">jreid@hnet.net</a> Term expires 7-01-05</p>	<p>Philip Sawin Jr. Menomonie Email: <a href="mailto:sawinp@uwstout.edu">sawinp@uwstout.edu</a> Term expires 7-01-03</p>
<p>Gyneth Slygh* Fall Creek Email: <a href="mailto:gslygh@charter.net">gslygh@charter.net</a> Term expires 7-01-04</p>	<p>Geraldine (Gerry) Wells (Children's/Young Adult Librarian, Tomah Public Library) Tomah Email: <a href="mailto:geriwells@yahoo.com">geriwells@yahoo.com</a> Term expires 7-01-03</p>

Kristi Williams* Cottage Grove Email: <a href="mailto:rtwillia@facstaff.wisc.edu">rtwillia@facstaff.wisc.edu</a> Or <a href="mailto:Kristi_williams@mononagrove.org">Kristi_williams@mononagrove.org</a> Term expires 7-01-04	
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\* Public member



State of Wisconsin  
Department of Public Instruction

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Elizabeth Burmaster  
State Superintendent

**Testimony on SB 128  
Before the  
Senate Committee on Judiciary, Corrections and Privacy  
Tuesday, June 10, 2003**

Dear Senator Zien and members of the committee:

The Department of Public Instruction is providing testimony for information in regard to SB 128. The Department's Division for Libraries, Technology, and Community Learning administers state and federal aid to public libraries and public library systems and provides consulting assistance to public libraries. It is also called on to provide opinions relating to Chapter 43 of the Wisconsin Statutes including s. 43.30.

Wisconsin's public libraries contain more than 20 million books, videos, sound recordings, and other items. These items were selected by trained librarians based on a materials selection policy adopted by the local library board of trustees. In 2002 public libraries lent more than 53 million items to the people of Wisconsin. Almost 20 million of these items are lent to children or their parents. Overwhelmingly, these items meet the needs of the child or adult who borrowed them.

Privacy of library use is an important concept in library service. If library users felt that information about the materials that they borrowed from the library would be shared with others, their use of the library would be greatly curtailed. That is why the Wisconsin legislature chose to enact s. 43.30 of the Wisconsin Statutes over twenty years ago and why most other state legislatures across the country have enacted similar legislation.

In enacting and modifying s. 43.30, the legislature chose not to limit privacy of library use by age. This decision has created both policy issues and procedural issues for libraries and their users.

An important public policy issue for consideration by this committee is whether enactment of the change proposed by SB 128 would cause some young people to avoid seeking reliable information at the public library which could assist them in dealing with personal or family problems of a significant nature. These problems might include a family member who is alcoholic or has a mental illness or is an abusive parent. Many librarians, especially those who work most directly with young people, feel that the proposed change in SB 128 would inhibit use of libraries by some young people.

Most of the procedural problems for libraries relate to use of the library by very young children. A library card has become a symbol of growth and learning as well as a mechanism for borrowing library materials. Even though a parent could easily borrow materials for their young children using the parent's card, it is often important to the child and the parent for the child to



have their own library card. When children are too young to take full responsibility for the timely return of their own library materials, parents sometimes need to know what materials are checked out on the child's library card. Under the current s. 43.30, a library cannot legally release that information directly to the parent without the child's consent. When very young children are involved, this doesn't seem reasonable, and this situation can create a public relations problem for the library.

Libraries, however, have worked out a variety of solutions for dealing with this problem. Some libraries offer a "family card" which allows parents to make sure they have the information they need about materials their child has out of the library. Also, more and more libraries are becoming automated and a parent can simply use the child's library card to access information electronically about the materials the child has checked out and when those materials are due.

There is a more complex issue when older young people are involved. This issue seems to relate more to internal family relationships than to library policies and procedures. Whether the changes in SB 128 would contribute positively or negatively to these relationships is something the committee will need to determine.

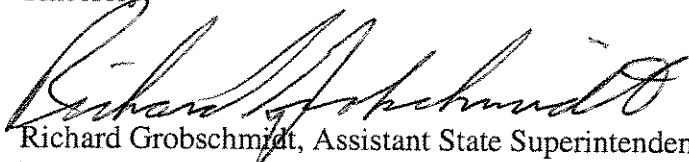
The Department supports the recommendation of the Wisconsin Library Association for modifying s. 43.30 as follows:

1. page 2, line 5. "...children under the age of ~~16~~ 14 as required..."
2. page 2, lines 10-11. "...all library records relating to ~~the use of the library's documents or other~~ overdue and lost materials, resources, or services by that child. according to policies established by the local library."

One other possible alternative to SB 128 would be to add language to s. 43.30 that would enable individual public library boards to adopt policies governing the release of information to parents or guardians of children. This would leave the decision as to how to approach this issue in the hands of the body that already must deal with other issues relating to the use of the library and its collections.

Thank you for the opportunity to provide testimony in regard to SB 128.

Sincerely,



Richard Grobschmidt, Assistant State Superintendent  
Division for Libraries, Technology, and Community Learning

## MEMORANDUM

**To:** Members of the Senate Committee on Judiciary, Corrections and Privacy  
**From:** Children and the Law Section, State Bar of Wisconsin  
**Date:** June 10, 2003  
**Re:** Senate Bill 128

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Thank you for the opportunity to present the unanimous opinion of the Children and the Law Section Board on Senate Bill 128. The Section Board opposes the disclosure of Public Library Records relating to a child's use of library resources to parents and guardians of children under the age of 16.

The Section is very concerned about the loss of privacy for children and the loss of a valuable resource for children. There are many children who cannot go to their parents to receive information regarding everything from mental health issues such as eating disorders, drug abuse, alcohol abuse; sexuality; sexual and physical abuse by peers and perhaps family members. Should a young boy or girl that is being victimized by a parent or guardian now be victimized again by disclosure of library records that may jeopardize their safety?

Current statutes allow the release of library records with a court order, for legitimate purposes. The Section does not believe it is appropriate for public libraries to become the investigative tool of parents and guardians. Making library records available to parents and guardians without any notice or reason may unwittingly harm more children than it helps or protects.

The Children and the Law Section of the State Bar urges committee members to oppose Senate Bill 128.



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- Association of Wisconsin Special Librarians
- Wisconsin Association of Academic Librarians
- Wisconsin Association of Public Libraries
- Wisconsin Association of School Librarians
- Wisconsin Library Trustee Association
- Circulation Services
- Document Services
- Intellectual Freedom
- Interlibrary Loan
- Library Research
- Library User Education
- Media and Technology
- Outreach Services
- Readers Section
- Reference & Adult Services
- Social Responsibilities
- Support Staff
- Technical Services
- WI Genealogy & Local History
- Wisconsin Small Libraries
- Youth Services

did not testify e hrg -  
left this w/ clerk  
prior week

**Testimony to the  
Senate Committee on Judiciary, Corrections and Privacy  
regarding SB128 (disclosure of public library records)  
Tuesday, June 10, 2003**

Dear Senator Zien and other members of the Committee,

My name is Paul Nelson. I am the Director of the Middleton Public Library, a position I have held for the past 17 years. I also serve as Chair of the Library Development & Legislation Committee of the Wisconsin Library Association. At its April 11<sup>th</sup> meeting, the WLA Board of Directors agreed that the issue of access to children's library records is one of local control. They also endorsed the compromise language that is found at the conclusion of my testimony.

Speaking for myself then as both a parent and a librarian, I am sympathetic to the issue that this legislation addresses: the legal and moral duty of parents to support, maintain, and care for their minor children. However, I am concerned about the bill's overly broad nature.

A number of public libraries in the state have used the "persons authorized by the individual to inspect such records" clause of 43.30(1) to provide some flexibility in responding to requests from parents regarding what their children have checked out of the library. According to Middleton's City Attorney, "If the [library card] application contained language authorizing the minor to disclose information in the circulation records to the child's parents, and the application was signed by the child, it would appear to me to comply with the letter of the statute." (*Letter to Library Director Paul Nelson dated June 30, 2000.*) He did, however, note that such a policy might be viewed as controversial.

Such a reaction has not occurred in Rhinelander. The circulation policy of the Rhinelander District Library states that records will be made available to "the legal parents or guardian of a minor patron." Patrons with overdue materials, for example, "forfeit a portion of their privacy, as the library reserves the right to induce return of Library materials through expedient and established policies.... In cases where the patron is a minor, responsibility for overdue materials shifts to the parent or legal guardian and notification of overdue material, fines and fees will be made to the parents as well as to the child."

At Middleton, we formerly struggled with requests made by patrons to pick up family member's library materials that had been sent to us from other libraries, "holds" as they are called in the library vernacular. A brief explanation of the privacy provision in chapter 43 of the Wisconsin State Statutes was frequently taken as an irrational response from library staff as far as the requestor was concerned.



**Middleton Public Library**

**Paul Nelson**  
Director

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*Leaders, educators and advocates @ your library.*

"But I'm picking this up for my wife," more than one patron sputtered, his face reddening in frustration.

These encounters were not pleasant ones.

I share this story as an example of how we provided some flexibility to Middleton's circulation policy. Patrons can now opt to fill out a "holds pickup authorization" form.

The first paragraph of the form reads: *We understand the library's policy for protecting the privacy of its users and its responsibility for protecting library materials. We authorize the library to allow the listed patrons to pick up each others holds at any LINK library. We understand that the person checking out materials must present his/her own valid library card and that this person will be responsible for the materials he/she has checked out on that card.*

Agreeing parties must then sign the form, which has provided a happy solution to what was an irksome problem for everyone concerned.

The point I wish to make here is that there are local solutions that should first be considered before a one-size-fits-all legislative approach is taken. Parents who feel that they have a right to know what their children have checked out of the library should first address this concern with the local library board. Board members could be asked to consider a provision similar to that which is found in the circulation policy of the Rhinelander District Library. In addition, many libraries now provide parents the ability to access their children's circulation records remotely, via a home computer or the telephone. Although they are not yet available at any Wisconsin public library, family library cards will be an option within the next few years.

Colleagues have also expressed the concerned that non-custodial parents of minor children may take advantage of the overly broad nature of AB169 to obtain personal as well as circulation information that could put certain children at risk.

In a spirit of compromise, I offer the following suggestions to make AB169 less broad in its scope:

1. page 2, line 5. "...children under the age of ~~16~~ 14 as required..."
2. page 2, lines 10-11. "...all library records relating to ~~the use of the library's documents or other~~ overdue and lost materials. ~~resources, or services by that child.~~ according to policies established by the local library.

Thank you for the opportunity to present this testimony.



WISCONSIN EDUCATIONAL MEDIA ASSOCIATION

June 11, 2003

Dear Senator:

The Wisconsin Educational Media Association (WEMA) is an organization of over 1100 library media and instructional technology professionals. On behalf of our membership, we wish to register in opposition to provisions in 2003 Senate Bill 128, a bill relating to public disclosure of library records.

The bill is broadly constructed and states that *"upon the request of a parent or guardian of a child who is under the age of 16, a library supported in whole or part by public funds shall disclose to the parent or guardian all library records relating to the use of the library's documents or other materials, resources, or services by that child."* (italics added for emphasis).

It is the position of WEMA that this bill is unnecessary in the K-12 environment, since existing law quite clearly protects the ability of parents to become involved in their children's use of school libraries and borrowing of library materials.

School library collections are selected by state certified professionals to meet the specific needs and interests of staff and students in a given age grouping, and the use of these materials is supervised by professional licensed and certified library media educators. Parents have always had the right to question library materials according to established procedures, as the state mandates that all public schools have reconsideration policies and procedures in place that allow parents and the community to question the appropriateness of library and instructional materials.

The role of schools includes protecting the rights and safety of students. We work with custodial parents and guardians, and we protect children from family members who have 'no contact' court orders. We ensure that students have access to information that is age and reading level appropriate, and we make materials available that may help students understand and answer questions about themselves and the world around them.

Since most school library circulation systems are not capable of storing extensive library borrowing histories, implementing a system with these capabilities, as well as recording Internet searching habits, would require far more resources than are currently available in most school budgets. To divert instructional expenditures for the purchase of more sophisticated software and expanded management tasks would be reprehensible in an environment that is already challenged to serve children's instructional needs well.

Finally, public funding supports more than public schools. Many private and parochial schools receive public funds for school library materials through federal pass-through grants. Additionally, in some communities private schools receive access to the Internet via publicly financed community-wide fiber optic networks. Few, if any of these schools have elaborate record-keeping systems, and most would find it difficult to supply extensive histories, if parents or guardians were to demand them.

On that basis, we encourage you to vote NO on SB 128.

Sincerely,

Mary Lou Zuege

President