

To: NJLA Task Force on Unattended Children

From: Grayson Barber

Re: Legal Analysis for Policy Development

Date: December 9, 2003

The New Jersey Library Association, in order to develop a model policy on unattended children in public libraries, has asked for a legal analysis and recommendations for a specific age at which young children should be permitted to use the library unattended. For the reasons set forth in this memo, I recommend that age six¹ should be the limit for unattended children, and that caregivers should be presumed to be competent at age 11.²

At what age should libraries permit young children to be left unattended for short periods?

I recommend age six for two reasons. First, by age six, most children have reached a set of developmental milestones that allow them to use the library independently. They are learning to read, they have developed a measure of independence from their parents, and they have a set of social skills, including self-control, that help them behave appropriately in the library setting.³ Second, age 6 strikes a compromise between competing interests on the part of the library.⁴

¹ The Task Force on Unattended Children will recommend age 7 to the NJLA Board.

² I generally support the proposed model policy and procedure prepared by Michele Reutty and John Hurley for the New Jersey Library Association in January 2003. A copy of their draft is attached. The only substantial change I would recommend is to lower the age in the definition of a responsible caregiver from thirteen to eleven.

³ Dr. Spock's Baby and Child Care (1992). Unfortunately, the other classic experts on child development do not provide relevant data. Jean Piaget's "periods of cognitive development" refer to the relevant age group as, for example, "pre-operational" and "the period of concrete operations." Erik Erikson outlines five stages of development based on Freudian notions of infantile sexuality. Howard Gardner describes seven kinds of

On the one hand, libraries want to make their resources available to everyone regardless of age. The policy of the American Library Association indicates that even very young customers should not be turned away on account of age:

Librarians and governing bodies should not resort to age restrictions on access to library resources in an effort to avoid actual or anticipated objections from parents or anyone else. . . . Librarians and governing bodies have a public and professional obligation to provide equal access to all library resources for all library users.

Moreover, library staff cannot verify the ages of the children who come into the facility. If a well-behaved five-year-old plays quietly in any part of the library, chances are the staff will have no way of knowing she's unattended.

On the other hand, however, the library is open to everyone, with all the attendant perils of a public place. The New Jersey Division of Youth and Family Services (DYFS) seems to have chosen age 7 as a rough estimate of the youngest age at which a child can reasonably expect to be left alone safely at home. The ALA resource guide entitled "Unattended Children in the Public Library" makes no recommendation, but notes that many libraries state that children age 5 and younger may not be in the library alone.

Accordingly, I recommend age 6 - one year younger than the DYFS benchmark - in the interest of accommodating younger children who have the skills to adhere to a library's usual code of conduct.⁵ Below age 6, for five-year-olds and younger, I

intelligence. The Gesell Institute of Human Development (Gesell, Ames & Ilg) emphasizes that every child is complex and that every age presents a set of contradictions. None of these authorities suggests a particular age at which children have achieved developmental milestones that would permit them to use a library.

⁴ There is no consensus whatever among libraries. I have appended several samples to illustrate the broad range of policies regarding unattended children.

⁵ I assume most libraries have standard codes of conduct that apply to children as well as adults. I also assume these codes of conduct are tailored to the library's mission. That is to say, patrons (including children) should be expected to comport themselves so that they and other patrons can take advantage of the library's services.

recommend that a responsible caregiver remain within earshot (or better, conversation distance) of the child at all times.

Is there a generally accepted age at which young children may be left alone in public places for longer periods of time?

No. Age alone is not a satisfactory indicator of a particular child's safety in any setting, public or private. New Jersey law does not prescribe a certain age at which a child may be left alone. The question seems to come up fairly often in the context of children who are left alone in the home. When DYFS receives calls regarding unattended children, it offers the following standard reply:

When evaluating a child's ability to care for himself or a younger child(ren), age must be considered. Age, however, should not be the only factor carefully weighed. If a referral is made to the Division alleging that a child(ren) is home alone, information must be gathered to conduct a safety assessment to determine whether the child is in any immediate danger. Safety is paramount. ... To ensure that a child(ren) is safe, there are certain questions DYFS might ask, for example:

- What are the age, abilities, general health and developmental level of the child?
- How many children are in the home without adult supervision?
- When is the parent expected to return?
- How often is the child(ren) left alone at home?
- Does the child know how and where to contact the parent if necessary?

...

In New Jersey, the law does not prescribe a certain age at which a child may be left alone. However, there are situations when removal from the home would be considered by the Division, when a child is found home alone. Under DYFS Policy, found at II C 1300, "REMOVAL FROM THE HOME," removal of a child from the home would be considered if "a child, age 7 years old or younger, or a child with an emotional, developmental and/or physical illness or disability, is left home alone, and the Division can not locate the child's parent or caregiver."

A librarian must similarly consider a host of factors to determine whether intervention is necessary for an unattended child.⁶

Interestingly, this issue has come up in other contexts, where age has similarly been cast aside as an indicator of an individual's ability to exercise good judgment. For example, there was until recently a "tender years doctrine," which provided that small children should live with their mothers if the parents' marriage broke up. The tender years doctrine has been abolished. Courts are now required to consider several factors in making custody determinations, including the preferences of the child. There is no fixed age at which a child forms the capacity to make a choice. The law has similarly changed with respect to the question of whether children can testify in court. Prior to 1967, age 14 was presumed to be the age at which children would be considered competent. Now, it is considered improper for a trial judge to rely on chronological age for making the determination.⁷

Accordingly, age is just one of many factors a librarian should consider in making a decision about the safety of an unattended child. Depending on the circumstances, an eight-year-old may require less supervision than a 14-year-old or, for that matter, a disruptive adult. Setting an age limit will not be adequate by itself for purposes of determining whether a patron needs supervision.⁸

⁶ Children who are left alone in a public library are not "neglected" or "abandoned" under New Jersey law. New Jersey law defines a neglected child as one who requires legal intervention because the parents have failed to exercise a minimum degree of care, putting the child's physical or mental health in danger. N.J.S.A.9:6-8.21c. An abandoned child is one whose parents have forsaken their parental rights and responsibilities (such as providing food, clothing, and shelter).

⁷ N.J. Evidence R. 601[5].

⁸ The DYFS Field Operations Casework Policy and Procedures Manual defines "lack of adequate supervision" thus:

306.4 Supervision is not adequate in the following circumstances:

I recommend adopting a library code of conduct that would apply to all ages and focus on using the library for the library's intended purposes. An advantage to this approach is that a blanket policy regarding disruptive behavior will apply to children who misbehave even with supervision. The guiding principle should be that no patron is allowed to disrupt others using the library or to prevent the library staff from doing their work.

At what age can a caregiver be presumed competent?

I recommend age **11**, because it is the age at which the American Red Cross offers babysitting classes.⁹ These classes are available in many localities throughout New Jersey and the rest of the country. This appears to be the age at which girls are generally entrusted to provide care to younger children.

But chronological age by itself is - again - not a good predictor of competence. Take for example the assumption that a married person is competent to care for children. In some parts of the world, girls may be legally married at age nine. Shocking? In the United States, the lowest limit was even younger - age seven! - until each state adopted a statute raising the age limit.¹⁰ For the purpose of authorizing medical treatment, children

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- a child left without adult supervision when the child's age, mental or physical conditions do not permit him to provide for his own food, to exercise good judgment, to prevent or deal with emotional or physical crisis or to control his behavior.
 - a child left with adult supervision but the adult is not available or is incapable of responding to the child's need for food, need to be protected from emotional or physical crisis or his need to have his behavior controlled.

⁹ See <http://www.redcross.org/services/hss/courses/babyindex.html>

See also <http://parents.berkeley.edu/recommend/classes/babysitting.html>

¹⁰ Holbert v. West, 730 F. Supp. 50 (E.D. Ky. 1990); 55 Corpus Juris Secundum Marriage §14. The common law in England and the United States provided that the marriage of a seven-year-old was presumed to be valid.

must obtain their parent's consent until they reach age 18 - except for abortion, STDs and substance abuse problems.

Children Unattended at Closing Time

The ALA resource guide suggests that all libraries adopt clear statements regarding children who remain unattended at closing time. Procedures should describe what constitutes a problem and the “who, what, and when” of actions to be taken. Procedures should include appropriate communications with library administrators and with parents. For example, staff should (1) attempt to locate a responsible parent or other adult by phone to ask them to come pick up the child; (2) if no one can be located within 15 minutes of closing time, the police should be called;¹¹ and (3) this incident should be reported to the library manager as soon as possible. Procedures may (and probably should) also specify actions that staff should not take (for example, library staff should never drive children home at closing), and make clear when staff have to use their own judgment. Libraries may consider a range of responses. As illustrated in the sample policies appended to this memo, some libraries impose fines, while others suspend library privileges for repeat occurrences.

Exposure to Litigation.

Libraries can and should adopt policies for child safety. Doing so will not expose them to liability.

¹¹ In some communities the police do not respond to such calls. DYFS sets a very high threshold. For example, when a child is left at a day care center beyond closing time, DYFS will take no action to intervene until one hour beyond the time the child was to be picked up by the parent. In the day care setting where children are very small, calling DYFS is undoubtedly a last resort. A comparable or longer time period may have to elapse before law enforcement authorities will respond with respect to older children.

Libraries want to create an environment that “feels” safe, so that children (and others) can learn and benefit from all the library has to offer. This is entirely appropriate, and essential to fulfilling the library’s mission in the community. It can raise a problem, however, when parents confuse the feeling of safety with the objective reality of the library as a public place. Libraries cannot guarantee safety to anyone and cannot deny access to anyone.

A library’s relationship to children therefore has twin aspects, offering special resources and programs for children, while simultaneously serving as a public facility fraught with all the perils of any public place. This creates a special concern: if a library adopts a child safety policy, does the library expose itself to liability if harm should befall a child?

The answer is no. A library’s legal duty is to create a safe environment to protect against reasonably foreseeable harm. Although a library can be sued on the theory of “premises liability,” the law does not require perfection. The New Jersey Supreme Court has stated that “the proprietor of a premises to which the public is invited for the business purposes of the proprietor owes a duty of *reasonable* care to those who enter the premises upon that invitation to provide a *reasonably* safe place to do that which is within the scope of the invitation.”¹² This duty includes the prevention of foreseeable criminal acts of third persons.¹³

¹² Butler v. Acme Markets, Inc., 89 N.J. 270, 445 A.2d 1141 (1982); Keith v. Truck Stops Corp. of America, 909 F.2d 743, 745 (3d Cir. 1990) (emphasis added).

¹³ Butler, 89 N.J. at 274. In holding that the duty of reasonable care extends to protecting invitees from foreseeable criminal acts of others, the New Jersey Supreme Court relied upon the reasoning of the Restatement (Second) of Torts, which states that a possessor of land is subject to liability “for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons...” and by the failure to discover the likelihood

This means that a library cannot perfectly insure the safety of its patrons, but it owes a duty of care to keep its premises reasonably safe. This includes a duty to supervise the premises adequately so that people lawfully using the library are not unreasonably exposed to danger.¹⁴ The library's duty is satisfied when it has used reasonable care to maintain its premises and create an environment where it is reasonably safe for customers who use the library for the library's intended purposes.

Library policies should contain clear and positive statements regarding the responsibilities of parents,¹⁵ clearly define appropriate and inappropriate behavior in the library, detail the actions that will be taken if rules are broken, and describe the recourse available to parents and children if they think they have been treated unfairly.

that such acts will be done or to give a warning sufficient to enable an invitee to avoid the harm. Restatement (Second) of Torts, § 344 at 223-224 (1965).

¹⁴ Abbott v. New York Public Library, 263 A.D. 314, 32 N.Y.S.2d 963 (1942) (stabbing at New York Public Library).

¹⁵ Librarians do not act "in loco parentis." The legal term refers to someone who has assumed the status and obligations of a parent without formal adoption, admitting the child into the family and treating the child as a family member.

Sample Policies:

Here are sample policies quoted verbatim from libraries around the country. They are in no particular order. I have made a few editorial comments in footnotes, and I have highlighted references to specific ages.

Franklin Township, New Jersey

Leaving a youth, **fifth grade** or younger, unattended inside or outside of the library at any time is not in keeping with reasonable use of the library as it is intended.

Carnegie Library of Pittsburgh, Pennsylvania

Children, their well being and safety are of great concern to Carnegie Library of Pittsburgh. We encourage families and youth to use our libraries. Children, as all library customers, are expected to behave appropriately. Parents, guardians, teachers, and caregivers, not library staff, are responsible for the behavior and supervision of their children in the library.

Behavior. In the library, many customers must share common space and resources. Disruptive, rowdy, or unsafe behavior will not be permitted. Parental supervision of children helps to prevent accidents and injuries. Verbal or physical abuse of staff or others in the Library will not be permitted. Damage, abuse, or theft of library property will not be permitted.

Unattended Children. An unattended child is a child of any age¹⁶ who is apparently unaccompanied by an adult. Parents, guardians, teachers and caregivers may not leave children alone or in the care of other children who are unable or unwilling to provide adequate care. Supervising adults must be close at hand.

As in all public places, “stranger danger” is a real concern. Library staff cannot prevent children from interacting with or leaving the library with persons who are not the appropriate chaperone. Staff may refer to Allegheny County Children & Youth Services for those children who are left unattended in the Library and whose basic needs for food, rest, parental supervisor or attention are not being fulfilled.

If the Library is closing, at a regular time or in an emergency situation, and a parent or guardian of a child cannot be located in the building, the City of Pittsburgh Police Department will be called. Bookmobile staff will call the police of the municipality they are serving.

¹⁶ Note that this policy does not give any age specification.

The library is not responsible for any consequences of parents forfeiting their responsibilities.

Warrenville, Illinois

Children **six** years of age and younger may not be left unattended in the library. They must be in direct supervision of a parent or other adult when in the library, which means they [the adults] must remain with the child during the entire library visit. This includes the circumstance of a child who may be playing a computer game or playing in the puzzle area. Exceptions to this policy occur when programming requires children to attend on their own. At these times, children should be brought to the meeting room door prior to the program and be met outside the door at its conclusion. If parents expect to be busy in the library, for an example, using a computer, photocopier or attending a meeting, plan to leave your child home or bring an adult caregiver with you to the library. Do not expect one child to supervise another.

Children ages **7-12** may be left in the library unattended for brief periods of time provided they demonstrate purposeful intent to use Library resources, and that their behavior is not disruptive to other patrons or library staff. Staff will warn children if their behavior is not acceptable and they may be ordered to leave the building if behavior does not improve.

Parents are responsible for the conduct of minor children (under **18** years of age) in the library or on library grounds, regardless of whether they are in accompany of their children or not.

If the library is closing and an unattended child is left at the library without transportation home, Library staff will allow the child to call home to remind their parents to pick them up. If child is unable to contact their parents, Library Staff will remain no longer than 15 minutes after closing. At that time, local law authorities will be contacted and the child will be placed in their care. Under no circumstances shall a staff member drive a child home.

San Antonio Public Library, Texas

The San Antonio Public Library welcomes use by children, and staff will assist them in use of Library materials or services. A responsible adult or sibling should accompany young children while they are using the Library, for the child's safety and comfort.¹⁷

Library staff will notify the parent or guardian of unattended children when: it is possible that the Library will be closing earlier than usual (due to inclement weather, a power outage, etc.); the child's behavior disturbs other users of the Library; there is cause to believe that the child's health or safety is in danger; the Library staff are unable

¹⁷ This policy contains no age limit.

to provide the necessary degree of supervision that is desirable for young children, for extended periods of time

Children who have not been picked up by closing time, and whose parent or guardian cannot be contacted, will be placed in the care of the San Antonio Police Department and will be taken to the Children's Shelter.

Warren-Newport Public Library, Gurnee Illinois

Children under age **8** must be accompanied and directly supervised by an adult, at all times, in all areas of the library, and on its grounds.

Unattended children between ages **8 and 18** are free to utilize the library as long as needed, provided their behavior is not disruptive to other patrons or staff members. Parents are responsible for their children's behavior on library premises. It is not the library's responsibility to provide child care. If disruptive behavior continues, library staff are given the options of requesting the child leave, calling the parents, or calling the police to escort the child home. Staff are authorized to call police when the library closes if unattended children have not been picked up.

Patrons who repeatedly violate this behavior policy will be issued a suspension letter. The Library Director and/or person in charge may issue the suspension letter after the first violation of this behavior policy if it is determined that such violation is severe. An "Accident/Incident Report Form" should be completed when a suspension letter is issued.

Ohoopsee Regional Library System, Georgia

The Board of Trustees of the Ohoopsee Regional Library System in order to assist library personnel to complete their duties, provide an atmosphere conducive to study and the appropriate use of the library's services and facilities, and provide for the safety, comfort and welfare of patrons of all ages has adopted the following policy:

- (1) The library is not responsible for the care of unattended minors. The library is not intended to be a daycare, after school care facility, summer camp or babysitting service.
- (2) Children under the age of **8 (eight)** may not be left unattended in the library. Care providers for children under the age of **8 (eight)** must be at least **16 (sixteen)** years of age. Care providers must supervise and provide guidance and control for their charges at all times.
- (3) Children under the age of **6 (six)**, using the children's computers, must have the care provider present at the computer terminal at all times.
- (4) Children between the ages of **8 and 15** should not be left unattended in the library for extended periods of time. Attendance at library programs, browsing for recreational reading, and after school use of the library for homework and study are encouraged and

considered appropriate. Librarians will provide minimal supervision, reference and research assistance. However after extended periods of time, or, in case of a problem, the Branch Manager after consultation with the Director, Extension Services Librarian and/or the Librarian-on-Duty may determine what is a reasonable length of time for the minors to be left unattended. Parents will be notified and asked to pick up and/or provide supervision for their child. In general, the library considers more than 2-3 hours (depending on the age and conduct of the child) to be excessive and inappropriate.

(5) Those unattended minors who do not abide by library rules and policies, or who exhibit unacceptable behavior, will be asked to leave, and/or call their parents for a ride. If they are unable to reach their parents, or if a ride does not come, they may be considered abandoned and the authorities called.

(6) The library is not responsible for minors without a ride home at closing. Minors without a ride home at closing may be considered abandoned and the authorities called.

(7) The library is not responsible for a minor's selection of library materials. The library believes it is the right and responsibility of a parent or guardian to determine what is appropriate material in order to meet personal family standards and guidelines. Therefore, parents are encouraged to accompany their children and to select material with their children or review their children's selections.

(8) All children under age **18** must have written permission from a parent or legal guardian, signed on the library permission form in the presence of a library employee, to access the Internet. Children under **17** must have a parent or legal guardian present at the computer terminal at all times. Children between the ages of **17 and 18**, with written parental permission as above, may access the Internet without parental supervision. The library is not responsible for the content or appropriateness of any materials accessed on the Internet.

(9) Adults who are using the Internet or other library services and programs must supervise or provide guidance and behavior control for minors accompanying them. The library reserves the right to prohibit Internet use, and/or ask the adults and minor children to leave if unacceptable behavior persists.

(10) Georgia Library PINES policy requires the signature of a parent or legal guardian approving the application for a library card for anyone under the age of 18.

(11) The Oohoopee Regional Library System requires the parent or guardian of a minor child to be responsible for all overdue, lost or damaged materials and fines, fees and other debts accrued by a minor child.

(12) The Oohoopee Regional Library System will release circulation records of a minor child to a parent or guardian only upon presentation of the child's library card or card number, or if the materials are lost, damaged or overdue. The reference questions of minor children will be considered privileged information as determined by state law and professional ethics.

(12) The Oohoopee Regional Library System will accept appropriate legal proof, including but not limited to marriage license or other court document, for patrons under 18 who claim emancipated minor status.

Wayne County, Idaho

The Wayne County Public Library encourages children to use its facilities and services. But while the library is very concerned for the safety of children in and outside library facilities, library employees cannot function as caregivers or baby sitters. Children under the age of **twelve** should always be accompanied by a parent, guardian, or custodian.

...

An unattended child is defined as:

- A. A young child who is unable to care for himself/herself or who may need assistance and is not under the direct supervision of a parent, guardian or custodian.
- B. Any child (excepting high school age child) who is in the library for prolonged periods of time on a repetitive daily or weekly basis.
- C. A child who is not picked up by closing time and who is below the age of twelve or who is older but appears to need staff help.

Leaving children unattended in library facilities will result in the application of the sanctions of the Patron Behavior Policy.

Hawaii

The public library shall not be responsible for the care of any child left unattended in a public library. A child aged **five** and below shall be accompanied by a parent, guardian, adult, or responsible person at all times while in a public library. A child aged **five** and below left unattended by a parent, guardian, adult, or responsible person may be reported to the police or other responsible public agency.

San Marino, California

The library is committed to providing a lifelong learning environment for people of all ages. We welcome and encourage students to come to the library after school as a place to read, do homework and use the library's resources to research assignments.

However, due to crowding and noise, we discourage students from using the library as a place to socialize and play with friends.¹⁸ Students who have no schoolwork to do, or who cannot read quietly should find an alternative place to go after school.

For their safety, children seven and younger should never be left in the library alone. We are also concerned about the safety of children left outside the library after closing. A new city ordinance was recently passed to provide a safe environment for children in this situation. If a child **12** or younger is left more than 15 minutes after closing time, the police department will pick the child up and take him or her to the police station. The first

¹⁸ Note that this policy does not provide a minimum age limit, but seems to discourage children from using the library until they are school age.

time, the parents will be warned, and each subsequent time, the police department will charge a fee to cover the time spent picking up and caring for the child.¹⁹

Carmel Clay, Indiana

Children are our most important resource! Please do not leave them unattended (even in the Children's Department). Children up to age 7 must have a responsible caregiver age 16 or older on the premises. If the child is 5 or under, the caregiver is asked to remain within sight and conversation distance of the child.²⁰ Remember ... this is a *public* building.

Juneau, Alaska

Do you know who's watching your child? We don't!
For a safe and satisfying experience at the library, all children under 8 years of age must be accompanied by an adult at all times.

Delphi, Indiana

We expect parents to understand and explain library rules to their children. The rules and policies have been developed to safeguard the collection and to ensure fairness for all library users.

We expect all children under the age of 7 to be accompanied by an adult or a responsible sitter while visiting the library.

We expect all children and teens to use appropriate language and behavior in the library. Those who do not will be asked to leave.

We expect parents to set reasonable time limits for their children's library visits.

We expect sick children to remain at home and not to be brought into the library, especially during children's programming when illness may easily be spread to other children.

We expect parents to maintain control of their children while visiting the library. Please remember that the library staff's professional services do not include baby-sitting.

We expect parents who attend children's programming with their children to demonstrate good listening habits.

Virginia Beach, Virginia

Is the library a safe place for my child?

The library, unlike school, is a public place that does not restrict who may visit, or monitor children in the library or when they leave. Staff maintain a safe and

¹⁹ This library charges a fee for children left unattended at closing time.

²⁰ I particularly like this reference to "conversation distance."

pleasant environment for library users and may require a child or adult who is disruptive to leave.

The resources in the library meet the full range of community members' interests and ages, thus not all are intended for children. These factors should be considered in making a decision whether an individual child is ready to use the library alone.

Is it OK to drop my child off at the library? What happens if I can't get to the library to pick up my child before closing?

Library staff want children to enjoy their visits to the library, not to be bored from too long a visit or anxious about how to get home. Consider how your child may feel if you are delayed in returning. The City of Virginia Beach assumes that, by definition, a child younger than **seven**, left unattended, is in neglect, and staff will call police. We discourage leaving children under **12** alone in public settings and caution that any individual left in charge of a child should be at least **16**.

Staff will wait with your child if he or she has not been picked up at closing, but you should expect to be billed for the cost to the city.²¹

Huron Public Library, Huron Ohio

The Huron Public Library welcomes children to use its facilities and services. However, the responsibility for the care, safety and behavior of children using the library rests with the parent/guardian or caregiver. A caregiver must be at least **12** years of age.

Library staff members have many duties and cannot supervise children nor act as a substitute for daycare.

Children through age **7** must have a parent or caregiver in the immediate vicinity unless they are participating in a library program. Parents or caregivers for those age 5 or under who do not attend the program with the child should remain in the building. Parents are still responsible for the actions of their children.

Children **8 - 12** may use the Library unattended for an amount of time appropriate to their age and maturity. It is important for staff to take note of disruptions caused by children who apparently are unaccompanied. Parents are still responsible for the actions of their children. Children using inappropriate behavior will be informed of the rules. If inappropriate behavior continues, the child shall be asked to leave the Library. If a child in this age group is unaccompanied by an adult or appropriate-aged caregiver, the staff will follow the directions below for children found on Library premises without a parent or caregiver. All children should have the telephone number of someone who can assist them in an emergency. The Library staff may not take responsibility for the care of any age child.

If a child is found without a parent or caregiver, the staff will:

²¹ Another fee for children left unattended at closing.

- A. Attempt to comfort the child, if necessary,
- B. Locate the parent or caregiver in the Library and explain the Child Safety Policy.
- C. Make every effort to contact the parent or caregiver who is not in the Library to come and pick up the child. Staff will express the Library's concern for the child's safety and explain the Child Safety Policy.
- D. Call the Huron Police to pick up the child, if the parent or caregiver cannot be located within 30 minutes. Staff will notify Director that police have been called.
- E. Encourage an unattended child to contact the parent or guardian if it is within 15 minutes of closing time. If a parent or caregiver cannot be reached or does not arrive within 15 minutes of closing, Library Staff will call the Huron Police to pick up the child. Staff will notify Director that police have been called.
- F. Remain with the child until the parent or caregiver or police arrive. This is compensated time for the two staff members who remain with the child.
- G. Leave a note on the Library door stating "Unattended child is in the custody of the Huron Police, 413 Main Street, 433-4114" once the child is in the care of the police. Names will not be stated on the sign.
- H. Not transport any child from the Library to another location.

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Butler v. Acme Markets, Inc., 89 N.J. 270, 445 A.2d 1141 (1982) (premises liability)

55 Corpus Juris Secundum Marriage §14.

Holbert v. West, 730 F. Supp. 50 (E.D. Ky. 1990) (marriage presumed valid for girls seven and older)

Keith v. Truck Stops Corp. of America, 909 F.2d 743, 745 (3d Cir. 1990) (premises liability)

In re Ribya, 243 A.D.2d 1013; 663 N.Y.S.2d 417 (1997) (severely disabled and autistic six-year-old left unattended at home)

In re Guardianship, 177 A.D.2d 115, 581 N.Y.S.2d 11 (1992) (leaving three children, ages 10, 6 and 21 months, unsupervised for "extended periods of time" while mother worked two jobs, did not constitute "permanent neglect")

State v. M.L., 253 N.J. Super. 13 (App. Div. 1991), certif. denied, 127 N.J. 560 (1992) (conviction for endangerment where mother left her 15 month old child unattended for over four hours)

State v. Garland, 270 N.J. Super. 31, 44 (App. Div. 1994) ("leaving children unattended constitutes a substantial threat to their welfare and safety and is recognized as grounds for criminal prosecution").

<http://www.childrensafetynetwork.org/>

www.redcross.org/services/hss/courses/babyindex.html

Proposed Model Policy for Unaccompanied Children

Prepared by Michele Reutty and John Hurley
for the New Jersey Library Association
January 15, 2003

Preamble

The Library exists to serve all residents of its service district. Libraries are permitted to regulate conduct of patrons in the Library. Code of conduct regulations should include protections for minors from exploitation and other dangers. Restrictions on unaccompanied minors may be necessary only to protect the health and safety of the children. NJLA recommends every library have an unaccompanied minors policy to protect children. The ages in this Model Policy are recommended. Each library's governing body should review the model policy and make adjustments to it as best suits its community. The purpose of the recommended policy is to guarantee that responsible caregivers accompany vulnerable children in the library. The policy should not be used to exclude children from the library nor to remedy problems with misbehavior by individuals or classes of people.

Libraries are advised to communicate with the local police department, local government and DYFS office as they prepare and adopt this policy.

Policy

All children are welcome at the Library and none will be turned away. Children under the age of six years must be accompanied by a responsible caregiver at least thirteen years old. Children under five years of age must remain in the presence of the caregiver at all times they are in the Library.

Procedure

- 1) If a child under one of the designated ages is left unattended, the staff shall try to identify and locate a parent or responsible caregiver.
- 2) If a parent is not found in the library, a staff member shall stay with the child until the parent can be located. Staff may use library records to identify addresses and phone numbers in the event a parent is not in the library.
- 3) If a parent or caregiver is located, the person shall be informed of the library's policy and asked to come to the library to attend to the child. Caregivers shall be told to remain in the same section of the Library if they leave a child less than five years old alone while they use another section of the library.
- 4) If a parent has not been located within a reasonable amount of time or if the library is closing, the police shall be notified and at least two staff members shall remain with the child.
- 5) Staff shall inspect the areas around the library at closing time to ensure that no vulnerable children are left alone outside when the library is closed.
- 6) Under no circumstances shall a staff member:

- a) take a child out of the building or transport the child to another location,
- b) escort a child across the street,
- c) attempt to give a child food, due to possible allergic reactions.

In the event an unaccompanied child less than thirteen years old violates the Library's Code of Conduct in a manner that requires exclusion from the library, the child shall be placed under close supervision of the library staff and the parent or caregiver shall be summoned to the library to take the child home.