

# SOUTHEAST LAW INSTITUTE™

**A. ERIC JOHNSTON**  
President  
General Counsel  
Telephone: (205) 968-0900

3800 Colonnade Parkway, Suite 545  
Birmingham, Alabama 35243  
E-mail: [SELawInstitute@aol.com](mailto:SELawInstitute@aol.com)

**HARRY O. YATES**  
Executive Director  
Associate Counsel  
Facsimile: (205) 968-6534

February, 2002

Dear SLI Supporter:

The 2002 Regular Session of the Alabama Legislature began on January 8, 2002 and, as usual, it is taking time for things to get rolling. While it will take a little while to see if there is momentum in any direction, we usually have an early indication of what kind of legislative bills to expect and which bills have a chance.

Many legislators have said they are not planning to do anything major and that they will adjourn early since it is an election year. When they say they will not be doing "anything major" we hope that means they will not do any great damage to the state. On the other hand, working legislation in campaign years is sometimes used as an opportunity for publicity. It remains to be seen whether this will be a relatively quiet session.

Sanctity of life legislation has been introduced in previous years and SLI has redrafted and prepared new bills for this session as well. The bill, known as the "Woman's Right to Know Act", is sponsored by Sen. Phil Poole and Rep. Mary Sue McClurkin. Another sanctity of life bill, the "Admitting Privileges" bill, is sponsored by Rep. Blaine Galliher. Since we cannot ban abortion, these bills seek to increase the quality of healthcare for women while protecting the unborn.

Because of the increase of violence and drug use in schools, several bills have been filed which, in an effort to expose students to better influences, will call for posting religious quotes and/or documents in public schools. The best bill out of those introduced is the "Historic Documents Act" (sponsored by Sen. George Callahan). It requires the Ten Commandments, the Magna Carta, the Declaration of Independence and the Bill of Rights all be posted. Posting the documents will call students' attention to important principles by which to live.

We have not seen the gambling bills yet; however, bills have been filed to include "sexual orientation" on the list of "hate crimes" in Alabama. Alabama has not recognized perverted sexual behavior as a protected right since it was organized as a state in 1819. I pray we will not.

Perhaps the most dangerous legislation to be introduced this session are (1) the amendment to the teacher background-check bill and (2) the bills calling for a constitutional convention. The background-check legislation could effect religious freedom and a re-write of the Alabama Constitution has far reaching potential for harm. These very dangerous issues must be addressed. We will give you a more complete description and update on these bills next month. We mention them now so you can be aware of them and begin praying for good results.

Remember SLI is not a lobbying organization. We provide legal assistance to our elected officials who do not otherwise have the staff to assist them. We believe if we are able to help write law that is constitutional in the beginning, problems and expensive lawsuits can be avoided later. This is just one of our long standing goals upon which we base our policies and we are thankful for the opportunity to serve and put your support dollars to good use in this way.

Your support for 2001 was very generous. Thank you. We appreciate your help. Keep in mind that during the legislative session, we have to devote more significant blocks of our time than at just about any other time of the year. Please continue your generous support at this especially demanding time.

The Southeast Law Institute,

A. Eric Johnston

AEJ/dcw

*The Southeast Law Institute is a 501(c)(3) organization providing legal counsel on constitutional and public policy issues.*

**AN EDUCATIONAL UPDATE FROM  
THE SOUTHEAST LAW INSTITUTE™, INC.**

**To: SLI Supporters**  
**From: A. Eric Johnston**  
**Date: February, 2002**  
**Re: WHOSE CHILDREN ARE THEY? - Part II**

---

**Introduction**

Last month we gave a brief history of the 1960's restriction of religious freedom in public schools, the choices of parents in the 1970's for church-based education and programs, and the attacks by state officials to regulate those schools. This resulted in laws to protect them. We also identified three recent efforts by the state to regulate. The Alabama High School Athletic Association attacked non-public schools by using an un-based multiplier for sports classification purposes. More significantly, methods of accreditation have been removed from non-public schools and a new program will take over all daycare.

**Accreditation**

It is important to all schools, public and non-public, to be accredited. Accreditation suggests that a school meet certain standards of providing a good education. For years, non-public schools have been accredited by four different entities. All were acceptable and provided a high standard of education. However, last year the state board of education determined by resolution that only schools accredited by the Southern Association of Colleges and Schools (SACS) would be recognized. This is a unilateral determination, to which non-public schools who are accredited by one of the other three organizations have no recourse, except attempting legislation or a lawsuit to protect their interests.

The net effect of this resolution is to penalize students in those schools which are not accredited by SACS. The students will have difficulty transferring to public schools and with the adequacy of the credits they have earned, perhaps even problems with college entrance. Again, the state has exercised penal control over church and other non-public schools without sufficient reason.

**Governor's Task Force on Early Learning**

In November 2000, Governor Siegelman appointed a Task Force to recommend what the state should do concerning preschool children. Many children attend daycare programs in private and church-run ministries. In June 2001, a slick glossy report entitled "Our Children, Our Future, Our Plan" was released. Its purpose was to lay the foundation for state-controlled preschool programs and to seek control over the lives of the newborn. Robin Mears, Executive Director of the Alabama Christian Education Association (ACEA), has analyzed the report. SLI works closely with ACEA on these issues and agrees with his observations:

- The annual cost is \$300,000,000.
- The plan calls for the consolidation of all children into a "Comprehensive System Housed in the Department of Children's Affairs, Office of School Readiness," as well as the creation of a State Board to oversee birth to age 5 programs.
- All newborns in Alabama hospitals must register with the state.
- All childcare facilities would be placed on a web database for the purpose of regulation.
- By the year 2004, all childcare centers in Alabama would be state-regulated, including the 628 that are currently exempt because they are church ministries.
- Being licensed, the facilities must use state-required materials.
- There is no provision in the report to protect church-based daycare and preschool programs.

**Conclusion**

Church preschool and school programs are seen as ministries of the church. They are extensions of the mission of the church. Most are Christian schools in which Christian teaching is explicit. For the state to regulate or license will result in removal of the basic mission of the church. If these efforts continue, church programs will be a thing of the past and if the church has a program, it will be secularized.

We were involved in the 1970's when these problems first arose and in the 1980's we worked to give church-based ministries in education the protection to which they were entitled under the First Amendment's Free Exercise Clause. We recognize symptoms and we can reasonably anticipate what will happen. Some may suggest our concern is like that of Chicken Little, but we think the advice of James Madison is better guidance for us that "it is proper to take alarm at the first experiment on our liberties." SLI will continue working with ACEA, other organizations, schools, churches, parents and students to protect their rights to have freely acceptable and academically recognized faith-based education.