ASSEMBLY BILL NO. 5599

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 5599 with my recommendations for reconsideration.

The bill establishes a procedure for petitioning the Superior Court for injunctive relief when there is a report of a crime committed against a current or former judge and there is a nexus to the judge's performance of their public duties. I am advised that the bill was not drafted in response to last year's terrible and shocking tragedy when a disgruntled attorney who was upset with United States District Judge Esther Salas showed up at Judge Salas's home, murdering Judge Salas's son Daniel Anderl and critically wounding Judge Salas's husband Mark Anderl. Instead, this bill is the product of a long-term working group project initiated in 2015 by members of the New Jersey Judiciary Security Management Response Team ("NJ JSMART"). The bill nonetheless seeks to address the same concern that gave rise to "Daniel's Law," which I proudly signed last year, namely, the need to ensure the safety and security of judges and their families, who may be targeted by disgruntled litigants and others simply because they performed their public duties as part of our judicial system. We must do all we can to safeguard these accomplished and vital public servants, both to protect them and their loved ones on a personal level and ensure that our system of justice is appropriately insulated from violence.

I commend the sponsors, and the members of the working group who developed this proposal, for having the foresight to bolster the protections that exist for judges. However, I am recommending a number of amendments to clarify the procedures and strengthen the protections that this bill will afford to judicial officers.

For example, the bill is unclear as to whether the protections apply only to judges in the State judicial branch, or whether it also applies to federal judges like Judge Salas or executive branch judges, such as Administrative Law Judges and Workers' Compensation Judges. Obviously, these judges rule on matters that affect the lives and interests of litigants and attorneys in the same way that Superior Court judges do, and the bill should make clear that its protections apply to the broader class of judicial officers. Fortunately, this is readily accomplished by incorporating the definition of "judicial officer" which was established as part of "Daniel's Law."

Another area in which the bill could be made stronger is in authorizing the victims themselves – active, formerly active, and retired judges – to pursue restraining orders. While it is appropriate to authorize law enforcement officers to petition the court to seek these protections on behalf of judicial officers, excluding the victims from seeking injunctive relief would be inconsistent with the process established in comparable injunctive protections laws such as Extreme Risk Protection Orders, restraining orders for victims of sexual assault, and domestic violence restraining orders. Additionally, family and household members of judicial officers could also be at risk due to the judicial officers' performance of their public duties, and should be able to avail themselves of the protections provided under this bill. To accommodate this victim-centered approach evident in parallel contexts, I am proposing amendments that would authorize formerly active and retired judicial officers and family and household members of such officers to petition the court for injunctive relief.

The bill could be further strengthened by incorporating provisions that will help avoid constitutional challenges to the bill, and bolster its defensibility in court. One change would be to predicate the availability of injunctive relief on the charging or conviction of a defendant for a crime against a judicial officer where there is a nexus between the crime and the performance of the judicial officer's public duties. Other recommended amendments would more clearly delineate the findings that a court must make in order to issue the injunctive relief authorized by the bill.

Accordingly, I herewith return Assembly Bill No. 5599 and recommend that it be amended as follows:

Page 3, Section 2, Lines 19-20:	Delete "A person commits a crime of the fourth degree if in committing" and insert "The trier of fact may infer that a person acted with a purpose to harass another if the person knows or should have known that any of the person's actions constituting"
Page 3, Section 2, Line 20:	Delete "he" and insert "are"
Page 3, Section 2, Line 20:	Delete "directs such" and insert "directed to or are about a judicial officer, and there is a nexus between the offense and"
Page 3, Section 2, Line 21:	Delete "action to a current or former judge that"
Page 3, Section 2, Line 22:	After "duties." Insert "For the purposes of this subsection, 'judicial officer' has the same meaning as defined in P.L.1963, c.73 (C.47:1A-1.1)."
Page 3, Section 3, Line 25:	Delete "Upon report to law enforcement of a"
Page 3, Section 3, Lines 26-37:	Delete in their entirety and insert "At any time following the charge or conviction of a defendant for any crime directed at or committed"
Page 3, Section 3, Lines 38-39:	Delete "current or former judge and a finding by law enforcement that" and insert "judicial officer where"

<u>Page 3, Section 3, Line 39:</u>	Delete "reported" and insert "charged or the crime for which the defendant was convicted, as the case may be,"
<u>Page 3, Section 3, Line 40:</u>	Delete "current or former judge's" and insert "judicial officer's"
<u>Page 3, Section 3, Lines 40-41:</u>	Delete "law enforcement" and insert "a petitioner"
<u>Page 3, Section 3, Lines 42-43:</u>	Delete "on behalf of the current or former judge" and insert "if the court finds that the respondent poses a threat to the safety or well-being of the judicial officer or a family or household member of the judicial officer"
<u>Page 3, Section 3, Lines 45-46:</u>	Delete "law enforcement officer" and insert "petitioner"
<u>Page 3, Section 3, Line 49:</u>	Delete "defendant" and insert "respondent"
<u>Page 3, Section 3, Line 50:</u>	Delete "defendant" and insert "respondent"
<u>Page 4, Section 3, Line 1:</u>	Delete "judge" and insert "judicial officer, family or household members of the judicial officer,"
<u>Page 4, Section 3, Line 1:</u>	Delete "judge's" and insert "judicial officer's"
<u>Page 4, Section 3, Line 2:</u>	Delete "defendant" and insert "respondent"
<u>Page 4, Section 3, Line 8:</u>	Delete "defendant" and insert "respondent"
<u>Page 4, Section 3, Line 11:</u>	Delete "defendant" and insert "respondent"
<u>Page 4, Section 3, Line 13:</u>	Delete "defendant" and insert "respondent"
<u>Page 4, Section 3, Line 13:</u>	After "reside." insert "e. For purposes of this section and section 4 of P.L. , c. (C.)(pending before the Legislature as this bill): (1) 'Judicial officer' means any active, formerly active, or retired federal, state, county, or municipal judge, including a judge of the Tax Court and any other court of limited jurisdiction established, altered, or abolished by law, a judge of the Office of Administrative

Law, a judge of the Division of Workers' Compensation, and any other judge established by law who serves in the executive branch;

(2) 'Law enforcement officer' means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State;

(3) 'Petitioner' means a law enforcement officer, a formerly active or retired judicial officer or a family or household member of such judicial officer, or an active judicial officer on behalf of whom a law enforcement officer has declined to petition the Superior Court pursuant to this section or a family or household member of such judicial officer; and

(4) 'Family or household member' means a spouse, domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), partner in a civil union couple as defined in section 2 of P.L.2006, c.103 (C.37:1-29), or former spouse, former domestic partner, or former partner in a civil union couple, or any other person who is a present household member or was at any time a household member; a person with whom the respondent has a child in common, or with whom the respondent anticipates having a child in common if one of the parties is pregnant; or a current or former dating partner."

Page 4, Section 4, Line 20:   After "evidence" insert ", which petition shall be granted if the court finds by a preponderance of evidence that there is a nexus between the alleged crime charged or the crime for which the respondent was convicted, as the case may be, and the performance of the judicial officer's public duties and that the respondent poses a threat to the safety or well-being of the judicial officer or a family or household member of the judicial officer"

Page 4, Section 4, Lines 22-23:   Delete "current or former judge" and insert "judicial officer"

Page 4, Section 4, Line 23:   Delete "defendant" and insert "respondent"

Page 4, Section 4, Line 28:   Delete "defendant" and insert "respondent"

Page 4, Section 4, Line 29:   Delete "defendant" and insert "respondent"

Page 4, Section 4, Line 29:   Delete "judge" and insert "judicial officer, family or household members of the judicial officer"

Page 4, Section 4, Line 30:   Delete "judge's" and insert "judicial officer's"

Page 4, Section 4, Line 31:   Delete "defendant" and insert "respondent"

Page 4, Section 4, Line 36:   Delete "defendant" and insert "respondent"

Page 4, Section 4, Line 37:   Delete "defendant" and insert "respondent"

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Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor