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March 22, 2023

***Via Overnight Mail and
Email at scousins@nysenate.gov***

Hon. Andrea Stewart-Cousins
Majority Leader of the New York State Senate
Senate Chamber
State Capitol
Albany, New York 12224

Dear Senator Stewart-Cousins:

I write on behalf of the Latino Judges Association to express our staunch opposition to Part DDD of Senate Bill S4005-B, which proposes various amendments to Judiciary Law § 212.

As members of one of the three branches of government, we believe that the proposed legislation threatens the independence of the New York State judiciary and interferes with the administration of justice. The proposed amendments serve no legitimate purpose other than to send a message that an arm of the Legislative Branch can exert control over the manner and extent of judicial training and judicial performance as it sees fit.

Judges are already required to complete Continuing Judicial Education (“CJE”) programs provided by the judiciary’s teaching institution - the New York State Judicial Institute (“JI”). New judges and sitting judges are required to attend and complete the CJE programs on a consistent basis. The topics, materials and presenters fall under the express mission of the JI and are publicly available to the Senate for their review and perusal. The oversight being proposed by the addition of a new subdivision 3 to Judiciary Law § 212 would interfere with the administration of the vigorous and comprehensive judicial training programs already in place and will only add an unnecessary administrative burden to the Office of Court Administration (“OCA”).

With respect to the proposed addition of a new subdivision 4 to Judiciary Law § 212 that would mandate the reporting of the judicial performance of all judges to the governor, temporary president of the senate, and speaker of the assembly, such proposed legislation appears to be in direct conflict with the separation of powers doctrine. The review of judicial performance metrics by

a different arm of government, in this instance the legislature, adds a layer of scrutiny to internal court operations that would be unprecedented and quite likely be challenged as unconstitutional. OCA does not need additional oversight from the legislature to perform its duties and responsibilities in running the courts in an efficient manner and the proposed scrutiny adds no tangible benefit. Such oversight by the legislature is a blatant interference with the administration of justice and threatens the independence of the New York State judiciary.

As to the proposed addition of a new subdivision 5 to Judiciary Law § 212 that would impose new judicial threat reporting requirements, this appears superfluous insofar as OCA already includes and supports budget requests for judicial security. What is needed is measures that keep judges' personal information out of the public domain, such as the New York State Judicial Security Act, and not more reporting requirements to a separate branch of government that add administrative burden and can lead to additional security risks if such details are leaked or mishandled.

Finally, we find the penalty of a \$10 million automatic cut to non-personal services funding in the UCS budget for failure to comply with Sections 1, 2, or 3 of the proposed legislation to be an actual threat to judicial independence and the administration of justice. A threatened cut to OCA's budget would undermine the level of services provided by the courts to the residents of this state that can have a disparate impact on pro-se litigants who mostly appear in Family and Housing Court. A punitive measure of this nature will have a chilling effect on court operations.

In closing, we urge the legislative and executive branches to reject this proposed legislation by the Senate for the reasons noted above.

Respectfully Submitted,



Walter Rivera

President, Latino Judges Association

cc: Hon. Brad Hoylman
Chair of the New York State Senate Judiciary Committee
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Hon. Robert G. Ort
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