To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1396 (Second Reprint) with my recommendations for reconsideration.

This bill would generally prohibit booksellers from disclosing information regarding book purchases to a State or local government entity, unless the entity obtains a court order or another exception applies. In cases where a law enforcement entity seeks a reader’s personal information, the bill would condition the issuance of a court order upon a showing of probable cause. A bookseller that discloses personal information in the absence of a court order or other recognized exception would be subject to a civil penalty.

I agree with the Legislature that the citizens of this State should be permitted to read what they choose without unnecessary government intrusion. To be sure, State and local government agencies are not currently engaged in the indiscriminate collection of data regarding books individual citizens elect to read. Accordingly, I commend the Legislature for putting forth a bill that seeks to ensure that this privacy interest will be protected by law.

However, I recommend certain changes to this bill that will reconcile legitimate law enforcement needs with the desire to provide book purchasers with an appropriate level of privacy. First, I propose that the bill’s definition of a “book” be amended to exclude materials depicting child pornography, so as to ensure that such illegal content does not receive the protections provided by the bill. Second, I note that the Legislature’s statement accompanying this bill explains that the bill seeks to extend “similar protections” to book purchasers
that the law currently affords to library users. However, the library statute, N.J.S.A. 18A:73-43.2, permits library records to be disclosed in response to a court order or a subpoena. To preserve law enforcement’s legitimate investigatory needs in the isolated cases where such data could be relevant, I recommend the bill be amended to allow for disclosure via subpoena, thus placing the personal information of book purchasers and book borrowers on equal footing.

Finally, I recommend strengthening the bill by expressly prohibiting government agencies from seeking book purchasers’ personal information, unless one of the conditions permitting disclosure is met. As drafted, the bill places the onus on booksellers to refuse government demands for customer information unless the government agency presents the bookseller with the appropriate paperwork. Booksellers should not be placed in the unenviable position of having to either refuse a law enforcement request for information or pay a penalty.

Accordingly, I herewith return Assembly Bill No. 1396 (Second Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1: Delete “P.L.1960,” and insert “Title 2A of the New Jersey Statutes.”

Page 2, Title, Line 2: Delete in its entirety

Page 2, Section 2, Line 14: After “newspaper” insert “, but shall not include items depicting the sexual exploitation or abuse of a child”

Page 2, Section 2, Line 39: Insert “‘User’ means a person who rents, purchases, borrows, browses, views or listens to a book offered by a book service.”

Page 2, Section 3, Line 40: Delete “a. A provider shall only disclose” and insert “A law enforcement entity or other government entity
shall not seek the disclosure of the

Delete “to a law enforcement entity pursuant to a court” and insert “from a provider, except in the following circumstances:

a. Disclosure is requested or consented to by the user;

b. Disclosure is pursuant to a subpoena or court order;”

Delete in its entirety

Delete in their entirety

Delete in their entirety

Delete “section,” and insert “c. A government entity requires that”

Delete “shall”

Delete in its entirety

Delete in its entirety

After “disclose” insert “the personal”

After “information” insert “of a book service user”

Delete in their entirety

Delete “6. A” and insert “4. Notwithstanding the provisions of Section 3 of P.L. , c. (pending before the Legislature as this bill), a law enforcement entity may seek, and a”

After “disclose” insert “,”

Delete “to a government entity, including a law enforcement”

Delete “entity,”

Delete “government” and insert “law enforcement”

Delete “, and the provider in good”
Page 4, Section 6, Line 4: Delete “faith believes,”
Page 4, Section 6, Line 6: After “and” insert “that”
Page 4, Section 6, Line 6: After “a” insert “subpoena or”
Page 4, Section 6, Line 7: Delete “government” and insert “law enforcement”
Page 4, Section 6, Line 8: Delete “statement setting forth the facts giving rise to the emergency” and insert “confirmation of its assertions”
Page 4, Section 6, Line 9: Delete “48 hours” and insert “7 days”
Page 4, Section 7, Line 11: Delete “7. A” and insert “5. Nothing in this act shall prevent a”
Page 4, Section 7, Line 11: Delete “may disclose” and insert “from disclosing the”
Page 4, Section 7, Line 13: Delete “is” and insert “may be”
Page 4, Section 7, Line 13: Delete “directly”
Page 4, Section 8, Lines 16-29: Delete in their entirety
Page 4, Section 9, Line 31: Delete “9.” and insert “6.”
Page 4, Section 9, Line 31: Delete “immediately” and insert “on the first day of the second month after the date of enactment”

Respectfully,

/s/ Chris Christie
Governor

Attest:

/s/ Christopher S. Porrino
Chief Counsel to the Governor