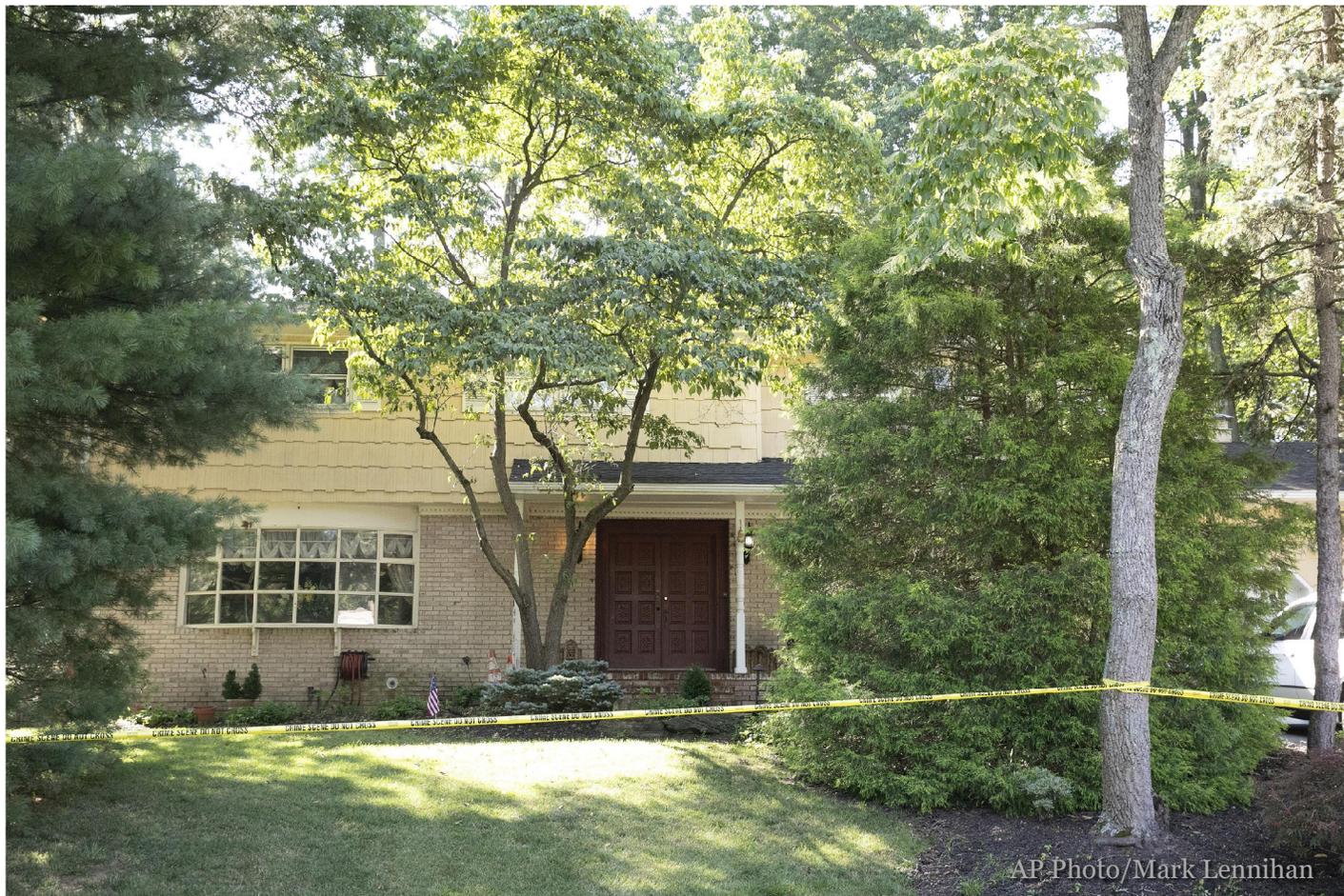


## National Journal

# Lawmakers ponder how to protect federal judges

After the fatal shooting of a New Jersey judge's son, Congress and the courts are navigating the complexities of her plea to protect the privacy of the nation's jurists.



Crime scene tape surrounds the home of U.S. District Judge Esther Salas on July 20, 2020, in North Brunswick, N.J. A gunman posing as a delivery person shot and killed Salas's 20-year-old son and wounded her husband Sunday evening at their New Jersey home before fleeing, according to judiciary officials.

**Zach C. Cohen**

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**S**enators say they want to protect the judiciary after a high-profile attack on a federal judge. What's less clear is how they'll do so.

Following the shooting of the son of Judge Esther Salas last month, lawmakers on both sides of the aisle are drawing up legislation to protect judges and their families. But the legislative avenues are unclear, with advocates and experts acknowledging that it is a more difficult proposition than meets the eye.

"Their goal is laudable, I agree that it's something that needs to be pursued," said Judge Hiram Puig-Lugo, president-elect of the National Council of Juvenile and Family Court Judges. "My impression, based on what I have seen, is it's easier said than done."

Salas, who sits on a federal trial court in New Jersey, last week made [a powerful appeal](https://youtu.be/sLWJPIAIPvE) (<https://youtu.be/sLWJPIAIPvE>) to lawmakers to keep judges' personal information private after an assailant came to her home and shot her son and husband, killing her only child. She said her family's assailant was able to compile "a dossier" on their family, including their home address and church, because of "the free flow of information from the Internet."

"My son's death cannot be in vain," Salas said, "which is why I am begging those in power to do something to help my brothers and sisters on the bench."

David Sellers, a spokesman for the administrative office of the nation's federal courts, told *National Journal* that judges and court staff "are discussing several judicial security matters and should reach a resolution and an action plan" as early as Thursday.

"Offsite security and keeping judges' personal information off the internet are matters of great concern to the judiciary," Sellers said in an email.

Sen. Bob Menendez, New Jersey's senior senator, said at a [press conference](https://www.facebook.com/watch/live/?v=721816791697781&ref=watch_permalink) ([https://www.facebook.com/watch/live/?v=721816791697781&ref=watch\\_permalink](https://www.facebook.com/watch/live/?v=721816791697781&ref=watch_permalink)) last week that he promised Salas he would work on legislation to keep federal judges' personal information out of the public domain. He added that fellow New Jersey Democratic Sen. Cory Booker, who sits on the Judiciary Committee, is working with him in that effort to find "legislative solutions" to address "a host of other critical security measures we need to consider."

"As one of the co-equal branches of our government, if a federal judge has to worry that his or her decisions at the end of the day could cause the loss of a life of a loved one, then I'm not sure how that full independence—even when one works hard to maintain it—can ever be achieved without worry in the back of your mind," Menendez said.

Spokespeople for both senators did not respond to requests for comment on this story.

The Salas attack is not an isolated incident. [Forty-two](https://www.loc.gov/item/2004109895/) (<https://www.loc.gov/item/2004109895/>) judges were killed in the 20th century, and [over a dozen prosecutors](https://www.cbsnews.com/news/texas-prosecutor-killings-highlight-revenge-risk-for-law-enforcement/) (<https://www.cbsnews.com/news/texas-prosecutor-killings-highlight-revenge-risk-for-law-enforcement/>) have been killed in the U.S. in the last century. The U.S. Marshals Service, charged with protecting federal judges, [reports](https://www.usmarshals.gov/duties/factsheets/facts.pdf) (<https://www.usmarshals.gov/duties/factsheets/facts.pdf>) that court officials they guard have received over 4,400 "threats and inappropriate communications" during the last fiscal year.

John Muffler, a security contractor and retired member of the U.S. Marshals Service specializing in threats against the judiciary, said threats against court officers have been increasing with the rise of social media that can snowball one slighted litigant's outrage.

“Physical attacks [on the judiciary] are rare. But when they do happen, they do happen away from the courthouse, the secure environment,” Muffler said. “So the targeted violence that we do see, to judges in particular, normally do happen at home.”

Salas acknowledged that protecting judges’ privacy “is a complicated issue.” But she specifically cited the existence of companies that bundle and sell personal contact information that then is easily available on the Internet.

Such companies are no strangers to judges. Puig-Lugo, who sits on the Superior Court of the District of Columbia, said security has briefed jurists in the capital on how to identify and contact private databases that sell their personal information. He said he’s never been successful in getting his information removed from those sites.

“There's nothing we can do unless there’s a remedy created,” Puig-Lugo said. “But if you have 100 companies out there who are bundling information, getting your information off the internet will become a full-time job.”

Kristian Stout, associate director of the International Center for Law and Economics, said that there is precedent for targeted privacy protections. The most famous is Europe’s “right to be forgotten,” a [controversial](https://www.nytimes.com/2019/09/24/technology/europe-google-right-to-be-forgotten.html) [law](https://www.nytimes.com/2019/09/24/technology/europe-google-right-to-be-forgotten.html) that gives the European Union’s citizens the power to compel search engines and directories to remove their personally identifiable information.

He also noted that telecommunications providers must abide by certain privacy protocols for their customers and that judges already can and do issue injunctions against the publication of private information.

“I would guess it would be some sort of criminal approach where they would say something like it's a felony or some sort of crime to publish the information of judges,” Stout said. “Almost certainly, they would have to put something in that would be based on notice. You can't just serve Google with criminal charges if there's information available through the search engine.”

Various states in the aftermath of attacks on judges have opted to limit the source of the information itself. After the murders of Los Angeles Superior Court Commissioner George Taylor and his wife Lynda in 1999, California [extended](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6254.21.&lawCode=GOV)

([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=6254.21.&lawCode=GOV](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6254.21.&lawCode=GOV)).

Internet privacy protections to elected and appointed officials. Other parts of California statute shield officials' [DMV](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1808.4.&lawCode=VEH)

([http://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1808.4.&lawCode=VEH](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1808.4.&lawCode=VEH)).

records from disclosure. The apparent assassination attempt of Texas District Judge Julie Kocurek prompted the state to pass [legislation](https://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=85R&Bill=SB42)

(<https://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=85R&Bill=SB42>) in 2017 that bars state agencies from publishing personal information of judges and their families.

“My recommendation for the folks in New Jersey is look at California,” Muffler said.

But congressional authority is limited to the federal level. That leaves state-court judges vulnerable, especially those dealing with family law, which Puig-Lugo says can be “conflictive” and governed by “strong emotions.”

There are also First Amendment considerations that Congress has to keep in mind. And they might need to consider the “can of worms,” as Puig-Lugo put it, of its scope.

“I’m aware that on the one hand people will think, ‘Well, why should judges be entitled to that protection? Why can’t I as a teacher, be entitled to protection as well if it turns out that there’s a parent who is dissatisfied with the grade that I assigned to their child who was a student in my class?’” Puig-Lugo said. “That’s one of the problems with these legislations: where do you draw the line?”

In the meantime, Senate Republicans have introduced their own proposal. Sens. Tom Cotton, Marsha Blackburn, and Kelly Loeffler introduced a [bill](#)

(<https://www.cotton.senate.gov/files/documents/HEN20852.pdf>) last week that would allow current and retired judges and prosecutors to carry concealed firearms by expanding the Law Enforcement Officers Safety Act.

“Prosecutors and judges make difficult decisions daily that have the potential to put them in harm’s way,” Loeffler said in a statement last week. “In a day and age when personal information is so easily accessible online, these public servants should be able to protect themselves and their families at all times.”