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ATTACHMENT D

July 26, 2018

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 38 of House Bill No. 4800, "An Act Making Appropriations for the Fiscal Year 2019 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 38 is intended to enable local boards of health to authorize the cremation of unclaimed bodies. I support this effort to enable our local governments to address the unfortunate circumstances when a person dies with no next of kin to claim the body or instruct a funeral director as to the appropriate disposition of the person's remains.

However, the relationship between this proposal and our existing laws is not clear. Existing law provides numerous protections to ensure that those bodies are handled in a manner that is consistent with public health, public safety and with the wishes of the next of kin. For instance, one of these protections is the requirement under Section 14 of Chapter 38 that a medical examiner or forensic investigator view any body intended for cremation and authorize cremation when no further reexamination or judicial inquiry concerning the death is necessary. The current section does not explain how to maintain this protection in the situation where local boards of health are authorizing cremation.

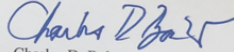
The new law can be reconciled with our existing laws in a manner that does not compromise public safety, public health or criminal justice. For these reasons, I recommend that the bill be amended by striking out Section 38 and inserting in place thereof the following text:-

SECTION 38. Section 43M of chapter 114 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary and for the purposes of this section, a board of health may serve as the legal duly authorized representative for the purpose of requesting cremation of unclaimed remains by signing a cremation form under

the following circumstances: (i) the unclaimed remains shall be in a location that is within the jurisdiction of the board of health; (ii) the board of health has received notice from a licensed funeral director that either no person has come forward to claim the remains or that no person may legally claim the remains; provided, however, that the board of health shall wait 30 days after such notification under this clause prior to signing the cremation form. The unclaimed remains shall then be viewed by a medical examiner or forensic investigator designated by the chief medical examiner pursuant to section 14 of chapter 38, who shall authorize such cremation only when no further examination or judicial inquiry concerning such death is necessary. The office of the chief medical examiner may waive the fee set forth in said section 14 of said chapter 38 for cremation authorizations pursuant to this section. There shall be no liability for a board of health or an employee, agent, or licensee thereof that authorizes the disposal of unclaimed remains in accordance with this section. Nothing in this section shall supersede the obligations of the office of the chief medical examiner as set forth in this chapter and chapter 38.

Respectfully submitted,



Charles D. Baker
Governor