ATTACHMENT E

August 9, 2023

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 of the Commonwealth of Massachusetts, I am returning to you for amendment Sections 50, 85, and 111 of House Bill No. 4040, "An Act Making Appropriations for the Fiscal Year 2024 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."

Sections 50, 85, and 111 provide unlimited free phone calls to incarcerated individuals in the custody of state and county correctional facilities, retroactive to July 1, 2023. The provisions also require the Department of Corrections and county Sheriff's Departments to consolidate contracts to increase purchasing power and create more leverage in contract negotiations.

I wholeheartedly support the aim of these sections which, as appearing in the conference report, build upon language I proposed in H.1. Ensuring access to free phone calls is a meaningful step on the path of criminal justice reform and recognizes the importance of building connections between those who are incarcerated and those who care about them on the outside. These provisions have long been the subject of vocal advocacy and have strong support from many stakeholders. I commend the Legislature for adopting this very important policy. However, as written, the proposal is retroactive, posing serious implementation challenges, and underfunded by $20M in the budget. To achieve our shared goals, I am recommending that the effective date of these sections be delayed to December 1, 2023. This adjustment avoids the need for retroactive reimbursements, provides time for the Department of Corrections and the Sheriff's Departments to manage vendor contracts more effectively, and addresses fiscal challenges while also ensuring that families will be able to connect with their incarcerated loved ones during the holiday season.

For this reason, I recommend that sections 50, 85, and 111 be amended by striking out the sections and inserting in place thereof the following 3 sections:-

SECTION 50. Chapter 127 of the General Laws is hereby amended by inserting after section 87 the following section:-

Section 87A. (a) For the purposes of this section, the terms “state correctional facility”, “state prison” and “county correctional facility” shall have the same meanings as those terms are defined in section 1 of chapter 125.

(b) The department of correction and sheriffs shall provide any person committed to a state correctional facility, state prison or county correctional facility, including a jail or house of correction, with voice communication services, including phone calls, free of charge to the person initiating and the person receiving the communication; provided, however, that voice communication services shall be maximized to the extent possible and no facility shall offer access to voice communication services less than were offered and available at such facilities on December 1, 2023; provided further, that the department of correction and sheriffs shall ensure adequate infrastructure for voice communication services; and provided further, that nothing in this section shall prohibit in-person contact visits.

(c) The department of correction and sheriffs may supplement voice communication services with other communication services, including, but not limited to, video and electronic communication services; provided, however, that other communication services shall not replace voice communication services; and provided further, that other communication services shall be provided free of charge to the person initiating and the person receiving the communication.

SECTION 85. (a) Notwithstanding any general or special law to the contrary, no voice communication services contract in force on the effective date of this act shall be affected by section 87A of chapter 127 of the General Laws, as inserted by section 50; provided, however, that voice communication services shall be free of charge to the person initiating and the person receiving the communication beginning on December 1, 2023; provided further, that other communication services offered pursuant to said section 87A of said chapter 127, including, but not limited to, video and electronic communication services, shall be offered free of charge to the person initiating and the person receiving the communication beginning on December 1, 2023.

(b) Notwithstanding any general or special law to the contrary, upon the expiration of any contract for voice communication services, the department of correction and the sheriffs shall seek to maximize purchasing power and consolidate contracts to the extent feasible; provided, that not later than January 1, 2024, the department of correction and the sheriffs shall report to the house and senate committees on ways and means and the joint committee on the judiciary on the status of any communication services contracts and plans to consolidate contracts to maximize purchasing power for voice communication services.

(c) Notwithstanding any general or special law to the contrary, any financial incentive received in connection with a voice communication services or other communication services contract, including, but not limited to, a commission, shall revert to the General Fund.

SECTION 111. Section 87A of chapter 127 of the General Laws, as inserted by section 50, shall take effect December 1, 2023.

Respectfully submitted,

Maura T. Healey
Governor