



OFFICE OF THE GOVERNOR

SEP 27 2026

To the Members of the California State Senate:

I am returning Senate Bill 1173 without my signature.

This bill would authorize a criminal court to instruct a jury and convict on a "lesser-related offense" of the defendant's choosing, over the objection of the prosecutor.

The propriety of the lesser-related offense rule contemplated by this bill was considered and rejected by the California Supreme Court more than 25 years ago in *People v. Birks* (1998) 19 Cal.4th 108. The Court explained that the lesser-related offense rule "can be unfair to the prosecution," that it "actually promotes inaccurate fact-finding," and that it may well violate the Constitution's separation of powers clause. These concerns are equally valid today, and I do not support upsetting the balance struck by the California Supreme Court in the *Birks* decision.

For these reasons, I cannot sign this bill.

Sincerely,

Gavin Newsom