



LISA MONET WAYNE
Executive Director

September 24, 2026

The Honorable Gavin Newsom
Governor, State of California
1020 O Street, Suite 9000
Sacramento, CA 95814

**RE: SB 1173 (Caballero) Jury Instructions: Lesser Related Offenses
REQUEST FOR SIGNATURE**

Dear Governor Newsom:

On behalf of the National Association of Criminal Defense Lawyers (NACDL), we respectfully urge you to sign SB 1173 into law. This legislation would restore an important safeguard in California criminal trials by giving a trial judge discretion to permit a jury to consider a lesser related offense when the facts presented at trial support that offense.

At its core, SB 1173 recognizes a basic principle of a fair criminal trial: the verdict should be grounded in the evidence presented to the jury. When the evidence establishes criminal conduct but does not support the particular offense charged, a defendant should have a meaningful opportunity to ask the court to allow the jury to consider a lesser related offense supported by the facts.

SB 1173 provides a measured response to this problem. It does not automatically place every lesser related offense before the jury. Rather, it gives the trial judge authority to determine whether the evidence presented at trial supports allowing the jury to consider the lesser related charge.

That judicial role is important. NACDL has consistently emphasized that criminal trials must permit the facts and circumstances of the individual case to be meaningfully examined through the adversarial process. NACDL leadership recognizes that the right to present a defense is a fundamental component of due process and that judges are responsible for applying established evidentiary principles to the particular facts of each case.

This is particularly important from the perspective of the criminal defense bar. A defense is not meaningful merely because evidence may be placed before a jury. The defense must also have a fair opportunity to have that evidence considered within the legal framework applicable to the

defendant's theory of the case. NACDL has emphasized that the right to present a defense encompasses the ability to present the defendant's version of the facts to the jury and that this right is a fundamental element of due process.

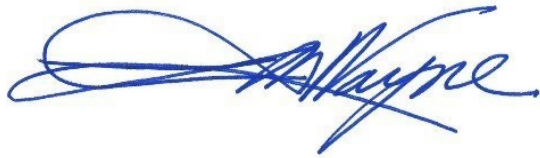
SB 1173 would therefore restore an important measure of balance to California's criminal trial process. It would allow the trial judge to determine whether the facts presented at trial warrant consideration of a lesser related offense while preserving the jury's central role in determining what the evidence establishes.

The legislation's stated purpose is straightforward: to ensure that the offense considered by the jury can correspond to the facts established in the criminal case. That objective is consistent with fundamental principles of due process, meaningful presentation of a defense, and reliable jury fact-finding.

For these reasons, the National Association of Criminal Defense Lawyers respectfully urges you to sign SB 1173.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Wayne", with a large, stylized flourish at the beginning.

Lisa M. Wayne, Esq.
Executive Director
National Association of Criminal Defense Lawyers