

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

AB 1705 (Bauer-Kahan)  
Version: February 4, 2026  
Hearing Date: June 16, 2026  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Pornographic internet websites

**DIGEST**

This bill specifies that the operator of a pornographic website, as defined, must exercise a duty of ordinary care with respect to sexually explicit content displayed on its site, and requires the operator of a pornographic internet website to obtain from its users a verification that sexually explicit material the user uploads to the site does not include a depiction of a person who was a minor at the time the material was created, who did not consent to be in the material, or who did not consent to have the material uploaded.

**EXECUTIVE SUMMARY**

Over the past decade, California has enacted a series of reforms to address image-based sexual abuse, including nonconsensual pornography, child sexual exploitation, and digitally altered deepfake content. Despite these efforts, social media platforms and other websites are still teeming with illegal sexual content. Victims of nonconsensual sexual content, including child sexual abuse material (CSAM), often face daunting, opaque, or ineffective takedown procedures, while the platforms profiting from the content typically avoid accountability, citing user anonymity or lack of notice.

This bill seeks to close that gap by establishing an enforceable duty of care for operators of websites, and establishing a specific duty of care for the operators of websites that permit users to upload sexually explicit material. The bill requires those platforms to implement a pre-upload certification mechanism that ensures sexually explicit content involves only consenting adults and is not distributed without authorization. Operators are also required to collect uploader contact information and verify that the contact information is valid before accepting uploads of sexually explicit content from the user. The bill also establishes both a private right of action and a civil enforcement action for public prosecutors, which can be brought against an operator who failed to verify whether material displayed on their site contained nonconsensual or CSAM

imagery or the user who uploaded the material. This bill is substantially similar to AB 392 (Dixon, 2025), which was held in the Senate Appropriations Committee after being passed 13-0 by this Committee.

This bill is sponsored by the author is supported by the American Association of University Women of California, the California Catholic Conference, the California Commission on the Status of Women and Girls, the California District Attorneys Association, the California Initiative for Technology & Democracy, the Children's Advocacy Institute at the University of San Diego School of Law, and Oakland Privacy. This bill is opposed by the Computer & Communications Industry Association (CCIA), Technet, and one individual. If this Committee passes this bill, it will be referred to the Senate Privacy, Digital Technologies, and Consumer Protection Committee.

### **PROPOSED CHANGES TO THE LAW**

Existing constitutional law:

- 1) Provides that the U.S. Constitution, and the Laws of the United States, are the supreme law of the land. (U.S. Const., art. VI, cl. 2.)
- 2) Provides that Congress shall make no law abridging the freedom of speech. (U.S. Const., 1st amend. (the First Amendment) & 14th amends.; see *Gitlow v. People of State of New York* (1925) 268 U.S. 652, 666 (First Amendment guarantees apply to the states through the due process clause of the Fourteenth Amendment).)
- 3) Provides that every person may freely speak, write, and publish their sentiments on all subjects, and that a law may not restrain or abridge liberty of speech. (Cal. Const., art. I, § 2.)

Existing federal law:

- 1) Establishes the Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks (TAKE IT DOWN) Act, which defines the following relevant terms:
  - a) "Consent" means an affirmative, conscious, and voluntary authorization made by an individual free from force, fraud, duress, misrepresentation, or coercion.
  - b) "Digital forgery" means any intimate digital depiction of an identifiable individual created through the use of software, machine learning, artificial intelligence, or any other computer-generated or technological means, or altering an authentic visual depiction, that, when viewed as a whole by a reasonable person, is indistinguishable from an authentic visual depiction of the individual.

- c) “Identifiable individual” means an individual who appears in whole or in part in an intimate visual depiction, and whose face, likeness, or other distinguishing characteristic (including a unique birthmark or other recognizable feature) is displayed in connection with such intimate visual depiction.
  - d) “Intimate visual depiction” means a visual depiction that depicts the uncovered genitals, pubic area, anus, or post-pubescent female nipple of an identifiable individual, or the display or transfer of bodily sexual fluids onto or from the body of an individual, as specified, or engaging in sexually explicit conduct.<sup>1</sup> (47 U.S.C. § 223(h)(1).)
- 2) Makes it a crime for any person, in interstate or foreign commerce, to use an interactive computer service to knowingly publish an intimate visual depiction of an identifiable individual, including a digital forgery, as follows:
- a) If the person is not a minor, when the intimate visual depiction was obtained or created under circumstances in which the person knew or reasonably should have known that the identifiable individual had a reasonable expectation of privacy, the content depicted was not voluntarily exposed by the individual, the content depicted is not a matter of public concern, and the publication of the intimate visual depiction is intended to cause harm to the identifiable individual.
  - b) If the person is a minor, when the depiction is posted with the intent to abuse, humiliate, harass, or degrade the minor, or to arouse or gratify the sexual desire of any person. (47 U.S.C. § 223(h)(2) & (3).)
- 3) Requires a covered platform to establish a process whereby an identifiable individual, or an authorized person acting on their behalf, may notify the platform of an intimate visual depiction on the platform and request its removal, with information sufficient for the platform to identify the individual and to locate the intimate visual depiction in question.
- a) The platform must provide a clear and conspicuous notice of the removal process that is easy to read, in plain language, and provides information regarding the platform’s obligations, including how to submit a removal notice.
  - b) Upon receiving a valid removal request, a covered platform shall, as soon as possible, but not later than 48 hours after receiving the request, remove the intimate visual depiction and make reasonable efforts to identify and remove any known identical copies of such depiction.

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<sup>1</sup> The federal definition of “intimate visual depiction” includes a drafting error which caused the “engaged in sexually explicit conduct” prong to be nestled within the “display or transfer of bodily fluids” prong. (See 15 U.S.C. § 6851(a)(5)(A).) Federal legislation that would correct this error is pending before Congress. (See HR 8516 (119th Cong., 2d Sess), § 501.) The same legislation would expand the federal civil action for nonconsensual sexual imagery to include digitally created sexual imagery, including imagery generated by AI. (*Ibid.*)

- c) A platform's failure to remove an intimate visual depiction after receiving a valid request is treated as a violation of specified federal laws and may be enforced by the Federal Trade Commission. (47 U.S.C. 223a.)
- 4) Provides that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(1).)
- 5) Provides that a provider or user of an interactive computer service shall not be held liable on account of either of the following:
  - a) Any action voluntarily taken in good faith to restrict access to, or availability of, material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.
  - b) Any action taken to enable or make available to information content providers or others the technical means to restrict access to such material. (47 U.S.C. § 230(c)(2).)
- 6) Establishes a civil action for a person whose intimate visual depiction is disclosed, in or through means in or affecting state commerce, without their consent, where the disclosure was made by a person who knew that, or recklessly disregarded whether, the person has not consented to the disclosure.
  - a) The fact that the person consented to the creation of the image does not establish that the person consented to its distribution, and the fact that the person disclosed the image to someone else does not establish that the person consented to its further disclosure. (15 U.S.C. § 6851.)
- 7) Provides that the civil action in 6) is not available in the following circumstances:
  - a) The intimate image is commercial pornographic content, as defined, unless the content was produced by force, fraud, misrepresentation, or coercion of the depicted individual.
  - b) The disclosure was made in good faith to law enforcement; as part of a legal proceeding; as part of medical education, diagnosis, or treatment; or as part of a report on, or investigation of, unlawful content or unsolicited or unwelcome content.
  - c) The image is a matter of public concern or public interest.
  - d) The disclosure was reasonably intended to assist the identifiable individual. (15 U.S.C. § 6851(b)(4).)

Existing state law:

- 1) Provides that every person is responsible, not only for the result of their willful acts, but also for an injury occasioned to another by their want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully

or by want of ordinary care, brought the injury upon themselves. (Civ. Code, § 1714(a) (Section 1714).)

- 2) Provides a private cause of action against a person who intentionally distributes a photograph or recorded image of another that exposes that person's intimate body parts, or shows the other person engaging in an act of intercourse, oral copulation, sodomy, or other act of sexual penetration without that person's consent, knowing, or where they should have reasonably known, that the other person had a reasonable expectation that the material would remain private, and causes the other person to suffer damages. (Civ. Code, § 1708.85(a).)
- 3) Defines "intimate body part" as any portion of the genitals, and in the case of a female, also any portion of the breast below the top of the areola, that is uncovered or visible through less-than-fully-opaque clothing. (Civ. Code, § 1708.85(b).)
- 4) Provides that there is no cause of action under 2) if the person distributed the material under specified circumstances, including:
  - a) That the distributed material was made with the consent of the person portrayed and was intended for public consumption.
  - b) The person appearing in the material consented to the publication.
  - c) The person appearing in the material waived their expectation of privacy in the material by publishing it.
  - d) The distributed material constitutes a matter of public concern.
  - e) The distributed material was filmed or otherwise created in a location having no reasonable expectation of privacy. (Civ. Code, § 1708.85(c).)
- 5) Defines the following relevant terms for purposes of 6), below:
  - a) "Altered depiction" means a performance that was actually performed by the depicted individual but was subsequently altered to be in violation of 6), below.
  - b) "Consent" means an agreement written in plain language signed knowingly and voluntarily by the depicted individual that includes a general description of the sexually explicit material and the audiovisual work in which it will be incorporated, and which may be rescinded within three days of the date the notice was given, as specified.
  - c) "Depicted individual" means an individual who appears, as a result of digitization, to be giving a performance they did not actually perform or to be performing in an altered depiction.
  - d) "Despicable conduct" means conduct that is so vile, base, or contemptible that it would be looked down on and despised by a reasonable person.
  - e) "Digitization" means to realistically depict the nude body parts of another human being, computer-generated nude body parts as body parts of the individual, or the depicted individual engaging in sexual conduct in which they did not engage.

- f) "Sexually explicit material" means any portion of an audiovisual work that shows the depicted individual performing in the nude or appearing to engage in, or being subjected to, sexual conduct. (Civ. Code, § 1708.86(a).)
- 6) Provides that a depicted individual has a cause of action against a person who does either of the following, subject to specified defenses:
    - a) Creates and intentionally discloses sexually explicit material and the person knows or reasonably should have known that the depicted individual did not consent to its creation or its disclosure.
    - b) Intentionally discloses sexually explicit material that the person did not create and the person knows the depicted individual in that material did not consent to the creation of the sexually explicit material. (Civ. Code, § 1708.86(b).)
  - 7) Defines the following relevant terms for purposes of 8):
    - a) "Child pornography," "identifiable minor," and "minor" have the same meanings as in 118 U.S.C. § 2256.
    - b) "Child sexual abuse material" (CSAM) means either child pornography or obscene matter that depicts a minor personally engaging in, or personally simulating, sexual conduct.
    - c) "Obscene matter" has the same definition as in 9), below.
    - d) "Reporting user" means a natural person who reports material to a social media platform using the means provided by the social media platform pursuant to 8), below. (Civ. Code, § 3273.65.)
  - 8) Requires a social platform, as defined, to provide a mechanism for a user in California to report to the platform material which the user reasonably believes is CSAM depicting an identifiable minor and to permanently block such reported material when there is a reasonable basis to believe that the reported material is CSAM; failure to comply with these requirements subjects a platform to liability in a civil action for actual damage and statutory damages, as specified. (Civ. Code, §§ 3273.66, 3273.67.)
  - 9) Defines the following terms for purposes of 10), below:
    - a) "Obscene matter" means matter, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest that, taken as a whole, depicts or describes sexual content in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value. (Pen. Code, § 311; *see also Miller v. California* (1973) 413 U.S. 15, 24.)
    - b) "Sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the

viewer, any lewd or lascivious sexual act, as defined, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct. (Pen. Code, § 311.4(d).)

10) Makes the following a crime:

- a) Knowingly distributing obscene matter, including obscene matter, matter that depicts a person under 18 years of age personally engaging in or personally simulating sexual conduct, and computer- or AI-generated images that depict a person under 18 years of age engaging in or personally simulating sexual conduct. (Pen. Code, § 311.2)
- b) Sexual exploitation of a child, defined as developing, duplicating, printing, or exchanging images or data depicting a person under 18 years of age engaged in an act of sexual conduct. (Pen. Code, § 311.3.)
- c) Hiring, using, or coercing a minor to engage in acts prohibited under (a), knowing the person is a minor. (Pen. Code, § 311.4)
- d) Knowingly possessing or controlling any matter, representation of information, data, or image, the production of which involves the use of a person under 18 years of age personally engaging in or simulating sexual conduct. (Pen. Code, § 311.11.)
- e) Secretly filming or taking images of an identifiable person under or through their clothing, or while they are in a state of full or partial undress, for the purpose of viewing their body or undergarments, without their consent, under circumstances where they have a reasonable expectation of privacy, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of the person taking the image and invade the privacy of the identifiable person. (Pen. Code, § 647(j)(2)-(3).)
- f) Intentionally creating and distributing, or causing to be created or distributed, any photorealistic image, computer-generated image, or pictorial representation of an intimate body part or parts of another identifiable person, or image of them engaged in specified sexual acts, when the image was created in a manner that would cause a reasonable person to believe the image is an authentic image of the person depicted, under circumstances in which the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress. (Pen. Code, § 647(j)(4).)

This bill:

1) Defines the following terms:

- a) "Depicted individual" means an individual who is depicted in the nude or engaging in sexual acts in sexually explicit content and who meets any of the following criteria: (1) the individual did not consent to being depicted in the

- sexually explicit content; (2) the individual was a minor at the time the sexually explicit content was created; or (3) when the sexually explicit content was uploaded to the pornographic website, the individual did not consent to that uploading.
- b) "Digitization" has the same meaning as in Section 1708.86 of the Civil Code.
  - c) "Internet website" does not include either (1) a service or application that provides email or direct messaging services, on the basis of that function alone; or (2) a service or application that provides cloud storage, file transfer services, or file collaboration, on the basis of that function alone.
  - d) "Operator" means a person who operates a website.
  - e) "Pornographic internet website" means a website that permits users to upload, or solicits from users, sexually explicit content for display on the website.
  - f) "Sexually explicit content" means any portion of a visual or audiovisual work, including, but not limited to, imagery created or substantially altered through digitization, that shows a depicted individual or depicted individuals in the nude or engaging in sexual conduct; but does not include content that, taken as a whole, has serious literary, artistic, or scientific value.
  - g) "User" means a person or entity that uploads or otherwise provides sexually explicit content to a pornographic website.
- 2) Requires an operator to exercise ordinary care, as described in Section 1714, and reasonable diligence to ensure that each instance of sexually explicit content displayed on the operator's pornographic website does not include a depicted individual.
- 3) Requires an operator to exercise ordinary care, as described in Section 1714, and take reasonable steps to ensure that each instance of sexually explicit content uploaded to the operator's pornographic website does not include a depicted individual.
- 4) Requires a user to submit both of the following to the operator of a pornographic website before uploading sexually explicit content to a pornographic website:
- a) A statement certifying, under penalty of perjury, that each individual depicted in the sexually explicit content meets all of the following criteria:
    - i. The individual was not a minor at the time the sexually explicit content was created.
    - ii. The individual consents to the sexually explicit content being uploaded to the pornographic website.
    - iii. The individual consented to being depicted in the sexually explicit content.
  - b) Information sufficient to enable the operator to contact the user, including, at a minimum, an email address.

- 5) Provides that an operator of a pornographic website who does not obtain the statement required in 4) is presumed to have violated 2).
- 6) Provides that knowingly providing false information in the statement required under 4)(a) is an infraction punishable by a \$1,000 fine.
- 7) Requires an operator to retain a statement and information required under 4) in a readily available format for at least seven years after the statement and information are submitted.
- 8) Requires an operator of a pornographic website to verify a user's email address before permitting the user to upload sexually explicit content to the website.
- 9) Permits the operator of a pornographic website to require a user to submit the information required under 4) through a specific mechanism or medium.
- 10) Permits a depicted individual who suffers harm as a result of sexually explicit content depicting them being displayed on a pornographic website to bring a civil action against the operator of the website if the operator allowed that content to be uploaded to, or displayed upon, its website in violation of 2) or 3)-9), and to bring a civil action against the user for uploading sexually explicit content that the user knew, or should have known, included a depicted individual.
- 11) Permits a depicted individual who prevails in a civil action pursuant to 10) to obtain all of the following relief:
  - a) Actual damages or statutory damages of up to \$75,000 per violation, whichever is greater.
  - b) Punitive damages.
  - c) Reasonable attorney's fees and costs.
  - d) Any other available relief, including injunctive relief.
- 12) Permits a public prosecutor to bring a civil action to enforce the requirements of 2)-9) to obtain all of the following relief:
  - a) A civil penalty of up to \$25,000 per violation.
  - b) Injunctive and other equitable relief.
  - c) Reasonable attorney's fees and costs.
  - d) Any other relief the court deems appropriate.
- 13) Provides that each calendar day that the sexually explicit content uploaded or displayed in violation of 2)-9) remains accessible on the pornographic website constitutes a separate violation.
- 14) Provides that the remedies established by the bill are cumulative and shall not be construed as restricting a remedy that is available under any other law.

## COMMENTS

### 1. Author's comment

According to the author:

AB 1705 would require users to verify the age and consent of a depicted individual when uploading sexually explicit material to adult media sites. In a world where internet access and technological literacy are at an all-time high, it is far too easy for individuals to share nonconsensual sexually explicit materials online. We must look for every opportunity to protect Californians from having their personal images and videos uploaded without their consent. One in 12 people are a victim of image-based sexual abuse and anyone can become the next victim. AB 1705 represents a necessary barrier to prevent abuse from occurring in the first place and will hold both websites and the uploaders accountable for the content they are sharing.

### 2. California's duty of ordinary care

Under Section 1714, every person is responsible for the harms caused by their willful acts and the harms caused by their failure to exercise ordinary care.<sup>2</sup> This requirement – known as the duty of ordinary care – “establishes the default rule that each person has a duty to exercise, in [their] activities, reasonable care for the safety of others.”<sup>3</sup> “[T]he question whether one owes a duty to another must be decided on a case-by-case basis,” and “the foreseeability of the risk [of harm] is a primary consideration in establishing the element of duty.”<sup>4</sup> While, generally speaking, a party has no obligation to protect a third party from the wrongful acts of others, a duty can arise if that party “has a special relationship with the foreseeably dangerous person that entails an ability to control that person’s conduct.”<sup>5</sup>

### 3. Online harassment campaigns punish, threaten, and shame women and gender-nonconforming individuals for speaking online

In fewer than 30 years, the internet went from a niche hobby to a foundational tool for business, socializing, and art. At its best, the internet expands horizons and connects people who otherwise never would have met, allowing them to form meaningful friendships. At its worst, the internet reinforces people’s cruelest tendencies, with the promise of anonymity making people feel comfortable saying and doing things online that they would never say in person. The internet also encourages pile-ons, where the vitriol of individual users feeds on itself and often results in extreme harassment.

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<sup>2</sup> Civ. Code, § 1714(a); e.g., *Vasilenko v. Grace Family Church* (2017) 3 Cal.5th 1077, 1083.

<sup>3</sup> *Kuciamba v. Victory Woodworks, Inc.* (2023) 14 Cal.5th 993, 1016 (internal quotation marks omitted).

<sup>4</sup> *Weirum v. RKO General, Inc.* (1975) 15 Cal.3d 40, 47.

<sup>5</sup> *Regents of University of California v. Superior Court* (2018) 4 Cal.5th 607, 619.

Online pile-ons are frequently targeted at women and gender-nonconforming individuals as a way to punish these folks for simply existing online. Sometimes there's an obvious (albeit ridiculous) reason for the misogynist internet's rage, such as the 2015 online harassment campaign of Anita Sarkeesian; in response to Sarkeesian's "Women vs. Tropes" video series, people sent her rape threats, death threats, and "created a game in which users can punch her in the face until it is bloodied."<sup>6</sup> Sometimes, though, the internet sics itself on a completely baffling target, like the 2024 harassment campaign of Dr. Ally Louks. Dr. Louks posted a photo of herself with her dissertation on X ("the everything app") to celebrate receiving her PhD from the University of Cambridge.<sup>7</sup> Users deemed her thesis—"Olfactory Ethics: The Politics of Smell in Modern and Contemporary Prose"—"woke" and sent her rape threats and death threats.<sup>8</sup>

The randomness of these online harassment campaigns make clear that the only way women and other marginalized folks can be totally safe from the online mob is to not post at all—depriving them of the benefits of online spaces and their ability to engage in online debate and discussion. This perpetual threat of online attacks prevents women and other marginalized individuals from fully exercising their rights, including their First Amendment rights.

#### 4. The internet is full of nonconsensual sexual imagery

One increasingly common tool used by online harassers to punish and shame women is to post nonconsensual sexual images. Persons of all genders are victims of CSAM and nonconsensual sexual image depictions, but the harms fall disproportionately on women and girls and gender-nonconforming individuals, with women of color, women who work in stereotypically "male" fields, and bisexual women being at particular risk of harassment.<sup>9</sup> The perpetrators are mostly male.<sup>10</sup>

Victims of nonconsensual sexual imagery publication frequently suffer deep emotional and psychological harm. Post-traumatic stress disorder is common among victims, who often "can't reach a place of psychological safety because their images are never fully deleted."<sup>11</sup> Victims also experience anger, guilt, paranoia, depression, and suicidal

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<sup>6</sup> Valenti, *Anita Sarkeesian interview: 'The word "troll" feels too childish. This is abuse'* (Aug. 29, 2025) The Guardian, <https://www.theguardian.com/technology/2015/aug/29/anita-sarkeesian-gamergate-interview-jessica-valenti>. All links in this analysis are current as of June 11, 2026.

<sup>7</sup> Prickett & McLeod, *Academic trolled for PhD 'unfazed by the vitriol'* (Dec. 4, 2024) BBC, <https://www.bbc.com/news/articles/ckgxvpzp9wvo>.

<sup>8</sup> *Ibid.*

<sup>9</sup> Maddocks, *Image-Based Abuse: A Threat to Privacy, Safety, and Speech* (Mar. 15, 2023) MediaWell, <https://mediawell.ssrc.org/research-reviews/image-based-abuse-a-threat-to-privacy-safety-and-speech/>.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

ideation; adult victims of revenge porn face similar long-term negative consequences to those seen in victims of child pornography.<sup>12</sup>

Sharing nonconsensual sexual images didn't start with the internet, but the internet makes it much easier to create and spread those images, thereby increasing the harm to the subject. The rise of AI has further facilitated the publication of nonconsensual sexual imagery online. Some of these images are expressly made for use as pornography – such sexually explicit AI-generated images that “went viral on Twitter after jumping from 4chan and a specific Telegram group dedicated to abusive images of women.”<sup>13</sup> Some of these images are used to threaten, harass, and blackmail the persons depicted in the images, such as an Ohio man accused of creating “pornographic deepfake videos of at least 10 people he was stalking and harassing,” including by threatening to “blackmail [them] using AI generated images of themselves having sex with their relatives.”<sup>14</sup>

The widespread availability of free or low-cost generative AI applications is making the problem worse, not better. At the end of 2025 and the beginning of 2026, X users discovered that X's built-in AI chatbot, Grok, would modify photos to make the subjects appear in transparent clothing or sexually suggestive positions.<sup>15</sup> For 11 days, X was flooded with images generated from prompts like “[m]ake her wear clear tapes with tiny black censor bar covering her private part protecting her privacy and make her chest and hips grow largee [sic] as she squatting with leg open widely facing back, while head turn back looking to camera.”<sup>16</sup> It's conservatively estimated that users published 1.8 million sexualized images of women in that period.<sup>17</sup> Elon Musk, owner of X, responded to the outcry by limiting Grok's image generation functionality – now only paying customers can use Grok to create nonconsensual sexual images of women.<sup>18</sup>

Although California has passed a number of bills to try to address the problem of nonconsensual sexual imagery online, the ease with which AI allows the creation of

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<sup>12</sup> Kamal & Newman, *Revenge Pornography: Mental Health Implications and Related Legislation* (Sept. 2016) *The Journal of the American Academy of Psychiatry and the Law*, Vol. 44, Iss. 3, available at <https://jaapl.org/content/44/3/359>.

<sup>13</sup> Maiberg & Cole, *AI-Generated Taylor Swift Porn Went Viral on Twitter. Here's How It Got There* (Jan. 25, 2024) 404 Media, <https://www.404media.co/ai-generated-taylor-swift-porn-twitter/>.

<sup>14</sup> Cole, *A Deepfake Nightmare: Stalker Allegedly Made Sexual AI Images of Ex-Girlfriends and Their Families* (Jun. 26, 2025) 404 Media, <https://www.404media.co/deepfake-harassment-ohio-undress-clothoff-nudify-apps/>.

<sup>15</sup> Conger, Freedman, & Thompson, *Musk's Chatbot Flooded X With Millions of Sexualized Images in Days, New Estimates Show* (Jan. 22, 2026) *New York Times*, available at <https://www.nytimes.com/2026/01/22/technology/grok-x-ai-elon-musk-deepfakes.html>.

<sup>16</sup> Cole, *Grok's AI Sexual Abuse Didn't Come Out of Nowhere* (Jan. 8, 2026) 404 Media, <https://www.404media.co/grok-ai-sexual-abuse-imagery-twitter/> (internal quotation marks omitted).

<sup>17</sup> Conger, Freedman, & Thompson, *supra*.

<sup>18</sup> Burgess, *X Didn't Fix Grok's 'Undressing' Problem. It Just Makes People Pay For It* (Jan. 9, 2026) *WIRED*, <https://www.wired.com/story/x-didnt-fix-groks-undressing-problem-it-just-makes-people-pay-for-it/>.

these images is making the problem worse, not better. As tech journalist Samantha Cole puts it, “We all agreed in 2017 that making nonconsensual nudes of people is gross and weird, and today, occasionally, someone goes to jail for it, but otherwise the industry is bigger than ever.”<sup>19</sup>

## 5. CSAM on the internet

CSAM was a problem before the advent of the internet, but the internet has led to a “dramatic increase” in CSAM, along with “the degree of violence and sadistic content depicted in CSAM.”<sup>20</sup> “CSAM is readily available through virtually every internet technology, including social networking platforms, file-sharing sites, gaming devices, and mobile apps.”<sup>21</sup> A significant amount of CSAM is exchanged through end-to-end encrypted technologies or on Dark Web sites like those on the Tor network.<sup>22</sup> In other cases, however, CSAM is available on supposedly legitimate pornography sites. After Nicholas Kristoff reported that Pornhub was hosting videos depicting minor sex trafficking victims,<sup>23</sup> Pornhub removed all of the content from the site that was uploaded by unverified community members—over 10 million of the 13.5 million videos on the site.<sup>24</sup>

Individuals can now also generate their own CSAM using AI. “Nudification” apps—apps that allow a user to upload a photo of a clothed person and render the person nude or scantily clad—are readily available on the internet and even through mainstream app stores. While Apple’s and Google’s app stores’ policies purport to ban these apps, an April 2026 investigation found not only that both Apple and Google’s app stores offered multiple nudification apps for download, but that Apple and Google ran ads for these apps including, “in Google’s case, a carousel of ads for some of the most sexually explicit apps encountered in the investigation.”<sup>25</sup> We’ve seen case<sup>26</sup> after case<sup>27</sup> after case<sup>28</sup> of teen boys downloading these apps and using them to create nude

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<sup>19</sup> Cole, *Grok’s AI Sexual Abuse Didn’t Come Out of Nowhere*, *supra*.

<sup>20</sup> U.S. Dept. of Justice, Child Sexual Abuse Material (2023) p. 5, available at [https://www.justice.gov/d9/2023-06/child\\_sexual\\_abuse\\_material\\_2.pdf](https://www.justice.gov/d9/2023-06/child_sexual_abuse_material_2.pdf).

<sup>21</sup> *Id.* at p. 2.

<sup>22</sup> *Id.* at pp. 4-5.

<sup>23</sup> Kristoff, *The Children of Pornhub* (Dec. 4, 2020) New York Times,

<https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>.

<sup>24</sup> Valinsky, *Pornhub removes a majority of its videos after investigation reveals child abuse* (Dec. 15, 2020) CNN, <https://edition.cnn.com/2020/12/15/business/pornhub-videos-removed/index.html>.

<sup>25</sup> Tech Transparency Project, *Apple and Google are Steering Users to Nudify Apps* (Apr. 15, 2026) <https://www.techtransparencyproject.org/articles/apple-and-google-are-steering-users-to-nudify-apps?ref=404media.co>.

<sup>26</sup> Healey, *Beverly Hills middle school rocked by AI-generated nude images of students* (Feb. 26, 2024) Los Angeles Times, <https://www.latimes.com/california/story/2024-02-26/beverly-hills-middle-school-is-the-latest-to-be-rocked-by-deepfake-scandal>.

<sup>27</sup> Haskell, *Calabasas teen says classmate not disciplined for sharing real and fake images of her* (Mar. 14, 2024) ABC 7 Eyewitness News, <https://abc7.com/calabasas-high-school-student-accuses-classmate-sharing-real-and-fake-nude-photos/14521422/>.

images of their middle school or high school-aged female peers, even though the possession of CSAM is a crime.<sup>29</sup> One gets the sense that the perpetrators don't appreciate how traumatic and cruel it is to create and spread nudes of their female peers, a sense sadly reinforced by school administrators' and law enforcements' often blasé approach to enforcement.<sup>30</sup>

And then there's X. The Grok nonconsensual sexual image spree discussed in Comment 4 didn't just create sexualized images of adult women. An analysis of that period indicates that Grok generated and published approximately 23,000 sexualized photorealistic images of children and approximately 9,900 cartoon sexualized images of children.<sup>31</sup> Several of the girls depicted in sexually explicit images created by Grok have filed a class action suit against xAI; Attorney General Rob Bonta announced that the California Department of Justice would be investigating xAI, but it does not appear that any official action has been taken beyond sending xAI a cease-and-desist letter.<sup>32</sup>

The Grok explosion of 2025-2026 was notable for its volume, but X has long appeared indifferent to the presence of CSAM on its site. According to the National Center for Missing and Exploited Children, "Twitter, and eventually X, has been one of the leading hosts of CSAM every year for the last seven years."<sup>33</sup>

#### 6. This bill imposes accountability for people who upload, and websites that display, CSAM and nonconsensual images

This bill establishes requirements relating to the display of CSAM and nonconsensual sexual images on websites. First, the bill specifies that the operator of a website has a duty of care and ordinary diligence to ensure that sexually explicit content displayed on its website is not CSAM or either created or posted without the consent of the person(s) depicted. Second, the bill sets forth how the operator of a pornographic website can satisfy this duty of care. The bill defines a "pornographic internet website" as any site

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<sup>28</sup> Fry, *Laguna Beach High School investigates 'inappropriate' AI-generated images of students* (Apr. 2, 2025) Los Angeles Times, <https://www.latimes.com/california/story/2024-04-02/laguna-beach-high-school-investigating-creation-of-ai-generated-images-of-students>.

<sup>29</sup> Pen. Code, § 311.2, 311.3.

<sup>30</sup> E.g., Cole, *How Deepfakes Tore a High School Apart* (2026) 404 Media, <https://www.404media.co/radnor-high-school-pennsylvania-ai-deepfakes-child-sexual-abuse-material/>.

<sup>31</sup> Center for Countering Digital Hate, *Grok Flooded X With Sexualized Images of Women and Children* (Jan. 22, 2026) <https://counterhate.com/research/grok-floods-x-with-sexualized-images/> (3 million images shared).

<sup>32</sup> California Department of Justice, Press Release: Attorney General Bonta Launches Investigation into xAI, Grok over Undressed, Sexual Images of Women and Children (Jan. 14, 2026) <https://oag.ca.gov/news/press-releases/attorney-general-bonta-launches-investigation-xai-grok-over-undressed-sexual-ai>; California Department of Justice, Press Release: Attorney General Bonta Sends Cease and Desist Letter to xAI, Demands It Halt Illegal Actions Immediately (Jan. 16, 2026) <https://oag.ca.gov/news/press-releases/attorney-general-bonta-sends-cease-and-desist-letter-xai-demands-it-halt-illegal>.

<sup>33</sup> Cole, *Grok's AI Sexual Abuse Didn't Come Out of Nowhere*, *supra*.

that permits a user to upload sexually explicit content for display; this definition is discussed further in Comment 7, below.

Under the bill's terms, operators of pornographic websites must take "reasonable steps" to ensure that no "depicted individual" – defined to include any person who either did not consent to being depicted, did not consent to the upload, or was a minor at the time of creation – is featured in uploaded content. To fulfill this duty, an operator must require users to submit (prior to upload) a signed statement affirming three facts:

- That no one depicted was a minor at the time of creation;
- That all depicted individuals consented to being depicted in the sexual content;
- And that all such individuals consented to the online upload.

Operators are also required to collect identifying contact information from the uploading user, including an email address; the operator must verify that the email address is valid before accepting an upload. A user who certifies false information in their verification statement is guilty of an infraction punishable by a fine of \$1,000 and may be civilly liable for damages. A website operator that did not obtain the user's certification as to the consensual nature of the sexually explicit content is presumed to have violated its duty of ordinary care.

The bill permits the person depicted in CSAM or a nonconsensual sexual image uploaded in violation of the bill's requirements to pursue a civil action against both the operator and the user who uploaded the video. The operator's liability is predicated on its failure to exercise its duty of ordinary care; the user's liability is predicated on their publication of illegal sexual material. The depicted person can obtain actual damages or statutory damages of up to \$75,000, punitive damages, reasonable attorney's fees and costs, and any other available relief. The bill also authorizes a public prosecutor to file suit against a violating operator or user and to seek civil penalties of \$25,000 per day of a violation.

#### 7. AB 392 (Dixon, 2025) and what qualifies as a "pornographic website"

This bill is significantly similar to AB 392 (Dixon, 2025), which this Committee passed 13-0 before the bill was held in the Senate Appropriations Committee. Like this bill, AB 392 imposed a general duty of care on the operator of a website to use reasonable diligence to ensure that sexually explicit content displayed on the website was not consensual and not CSAM. AB 392 and this bill also have the same certification mechanism for uploading sexually explicit material to a pornographic website, and the same penalties for violations. The main difference between the two bills lies in the definition of "pornographic internet website," which in turn affects how broadly the bills' certification and uploading mandates apply.

In AB 392, a "pornographic internet website" was defined as a website that the owner or operator holds out as featuring sexually explicit content, or for which users are

invited, or solicited, to upload sexually explicit content for display on the site. In other words, under AB 392, a site is a pornographic website if the owner or operator intends for it to be a pornographic website.

In this bill, a “pornographic internet website” is an internet website that permits users to upload, or solicits from users, sexually explicit content for display on the internet website. This definition is more existential than AB 392’s: if a website has sexually explicit content on it, it’s a pornographic website.

Opponents of the bill argue that this definition is overbroad. They urge that the bill should not apply to platforms if the operator maintains and enforces policies prohibiting sexually explicit content, employs reasonable and proportionate content moderation measures to detect and remove sexually explicit content, and responds promptly to take-down requests and removes violating content within a reasonable timeframe.

Most major social media platforms have policies against posting nonconsensual images and claim to remove violating content. For example, X prohibits “post[ing] or shar[ing] intimate photos or videos of someone that were produced or distributed without their consent”<sup>34</sup> and claims to have “zero tolerance for any forms of child sexual exploitation.”<sup>35</sup> As discussed above, however, this is a policy in name only: X users are regularly permitted to post nonconsensual sexual images of women and children, including images created by X’s in-app GenAI model, Grok.<sup>36</sup> Opponents did not inform Committee staff which platforms they believe have policies and moderation practices sufficient to warrant their exemption from this bill.

## 8. Constitutional issues

There are two main issues here: whether the bill infringes on a social media platform’s First Amendment rights, and whether the bill is prohibited under Section 230 of Title 47 of the United States Code, better known as just “Section 230.”

### *a. The First Amendment*

This bill raises two First Amendment questions: does the cause of action for the publication of CSAM or nonconsensual sexual images restrict protected speech; and does the certification mechanism overly burden or chill protected speech?

The First Amendment, as applied to the states through the Fourteenth Amendment, prohibits Congress or the states from passing any law “abridging the freedom of

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<sup>34</sup> X Help Center, Non-consensual nudity policy (Dec. 2021) <https://help.x.com/en/rules-and-policies/intimate-media>.

<sup>35</sup> *Id.*, Child safety (May 2024) <https://help.x.com/en/rules-and-policies/child-safety>.

<sup>36</sup> *E.g.*, Koebler, *Grok’s AI CSAM Shitshow* (Jan. 5, 2026) 404 Media, <https://www.404media.co/groks-ai-csam-shitshow/>

speech.”<sup>37</sup> “[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.”<sup>38</sup> However, while the amendment is written in absolute terms, the courts have created narrow exceptions to the First Amendment’s protections.<sup>39</sup>

One such exception is for CSAM. The First Amendment does not protect child pornography, period.<sup>40</sup> The Supreme Court has, however, held that the First Amendment protects child pornography material “that does not depict an actual child”.<sup>41</sup> That opinion addressed child pornography that was entirely computer-generated, on the basis that “[t]hese images do not involve, let alone harm, any children in the production process.”<sup>42</sup> Although the Supreme Court has not squarely addressed the issue, this analysis proceeds on the assumption that AI-generated CSAM depicting an identifiable child also falls outside the First Amendment’s protections, given the obvious and documented harms involved.<sup>43</sup>

The Supreme Court has yet to expressly rule on whether nonconsensual sexual images of adults are categorically exempted from First Amendment protection, but it is difficult to imagine that the Court would find such images worthy of protection. These images are, however, against the law in California – whether they are real or AI-generated.<sup>44</sup> Opponents of the bill do not argue that the First Amendment invalidates those laws or that users have a right to post nonconsensual sexual imagery on their platforms, so this analysis assumes that the First Amendment does not protect nonconsensual sexual images.

Accordingly, while the bill creates a content-based cause of action for the publication of CSAM and nonconsensual sexual images posted due to a lack of ordinary care, there is likely no First Amendment impediment because these types of content are not protected by the First Amendment.

The next question is whether the bill’s certification requirement presents a First Amendment issue by “chilling” protected speech, i.e., creating conditions where individuals refrain from engaging in protected speech because the threat of prosecution or liability makes it too risky to speak in ways that may be close to the boundary of what’s permitted.<sup>45</sup>

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<sup>37</sup> U.S. Const., 1st & 14th amends.

<sup>38</sup> *Ashcroft v. American Civil Liberties Union* (2002) 535 U.S. 564, 573.

<sup>39</sup> *R.A.V. v. St. Paul* (1992) 505 U.S. 377, 383.

<sup>40</sup> *New York v. Ferber* (1982) 458 U.S. 747, 765.

<sup>41</sup> *Ashcroft v. Free Speech Coalition* (2002) 535 U.S. 234, 244.

<sup>42</sup> *Id.* at p. 241.

<sup>43</sup> See *Brasse v. State* (Md. Ct. App. 2025) 333 A.3d 593, 768 (holding that statute is not overbroad to the extent it criminalizes AI-generated CSAM depicting an identifiable child).

<sup>44</sup> Pen. Code, §§ 647

<sup>45</sup> E.g., *Ashcroft v. Free Speech Coalition* (2002) 535 U.S. 234, 237.

In *Free Speech Coalition, Inc. v. Paxton*, the United States Supreme Court upheld Texas's law requiring pornographic websites to verify users' ages through specified means.<sup>46</sup> The Court applied intermediate scrutiny to the law, consistent with the Court's precedent holding that "[s]tates can impose greater limits on children's access to sexually explicit speech than they can on adults' access."<sup>47</sup> In upholding the law, the Court recognized that age verification might burden adults' rights to access adult material, but concluded that the burden was incidental to the state's legitimate goal of regulating minors' access to material they have no First Amendment right to access.<sup>48</sup>

If the bill applied only to websites that host exclusively sexually explicit content, the analysis would probably end here: requiring a user to certify that their adult material is legal seems like the kind of incidental burden that the Court permits under the First Amendment. But because this bill applies to any website that displays sexually explicit content, even as a small percentage of its overall published content, there is also a question of whether platforms will respond by limiting the kind of content their users can post.

The opposition letter submitted to this Committee confirms this concern, stating that "platforms will predictably err on the side of removing content, including lawful expression." For example, a platform could, rather than implement the bill's certification mechanism, avoid liability by ratcheting up its automated content filters to prohibit the display of imagery that's even potentially sexual, thereby avoiding falling within the definition of a "pornographic website." While this would prevent the publication of CSAM and nonconsensual sexual content, it would also prevent users from publishing a range of protected speech, such as content featuring burlesque show performers, people at the beach or at Halloween parties, or Pride marches.<sup>49</sup> Additionally, although the bill excludes from the definition of "sexually explicit content" work that has serious literary, artistic, or scientific value, platforms may not want to take on the legal risk of deciding what counts as, e.g., an artistic work. This could affect fan art sites and other creative spaces.

It is clear that the state could not, under the First Amendment, require a platform to take such drastic moderation measures. "Sexual expression which is indecent but not obscene is protected by the First Amendment,"<sup>50</sup> and the First Amendment prohibits the suppression of a significantly broader category of speech than is necessary to

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<sup>46</sup> See *Free Speech Coalition v. Paxton* (2025) 606 U.S. 461.

<sup>47</sup> *Id.* at pp. 473, 477.

<sup>48</sup> *Id.* at p. 483.

<sup>49</sup> There is evidence that some platforms already program their content moderation filters to disproportionately block and suspend accounts of people in marginalized groups, such as when Instagram recently blocked and suspended over 50 Dutch LGBTQ organizations simultaneously and with no explanation (Anderson, *Dutch Queer Accounts Removed from Instagram Again: No Explanation Provided* (Apr. 23, 2026) Dutch Times, <https://dutchtimes.nl/business/dutch-queer-accounts-removed-from-instagram-again-no-explanation-provided/>.)

<sup>50</sup> *Reno v. American Civil Liberties Union* (1997) 521 U.S. 844, 874 (cleaned up).

achieve the state's goals.<sup>51</sup> So the question is this: if a platform elects to censor a wide swath of speech rather than implement the certification mechanism in this bill, would a court treat that as chilling speech, or a choice? If a platform admits that its business model doesn't work unless it can display a little bit of CSAM and a little bit of nonconsensual sexual imagery, does the state have to sanction that business model? The opposition did not provide, and Committee staff did not locate, precedent providing clear guidance on this point.

*b. Section 230*

Section 230 states, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."<sup>52</sup> That section also provides a safe harbor for "any action voluntarily taken in good faith to restrict access to, or the availability of, material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected."<sup>53</sup> Finally, it provides that "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section."<sup>54</sup> Many have argued that the courts' interpretation of Section 230 in the immediate aftermath of its passage is far broader than Congress intended, or than is warranted by the text of the statute.<sup>55</sup>

As discussed in Comments 4 and 5, it is basically common knowledge that CSAM and nonconsensual sexual images are prolific on the internet. The foreseeability of hosting illegal material – CSAM or nonconsensual sexual images – is therefore high for any platform that accepts sexually explicit uploads for display and, potentially, monetization.

This bill recognizes that it is highly foreseeable that users will continue to upload illegal content online, and it appears reasonable to assume that an operator's duty of ordinary care includes taking basic steps to avoid such uploads. To that end, the bill specifies how an operator must satisfy their duty of care to avoid posting illegal material, i.e., through a relatively low-effort verification mechanism. The private right of action permitted by the bill does not render the operator vicariously liable for the user's wrongdoing, but rather for its own negligence in failing to take basic steps to prevent the highly foreseeable injuries caused by allowing sexually explicit material to be uploaded with no checks on the users. Overall, this bill's approach appears consistent with recent verdicts finding social media platforms liable for their own design choices

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<sup>51</sup> *Ib.*, pp. 874-875; *Packingham v. North Carolina* (2017) 582 U.S. 98, 109.

<sup>52</sup> 47 U.S.C. § 230(c)(1).

<sup>53</sup> *Id.*, § 230(c)(2)(A)

<sup>54</sup> *Id.*, § 230(e)(3).

<sup>55</sup> *E.g.*, *Anderson v. TikTok, Inc.* (3d Cir. 2024) 116 F.4th 180, 190-192 (conc. & dis. opn. of Matey, J.).

and misleading public statements that resulted in harm to users, and judicial determinations that Section 230 does not prevent such liability.<sup>56</sup>

#### 9. Arguments in support

According to the California Commission on the Status of Women and Girls:

The rise of generative artificial intelligence tools has too easily paved the way for misuse and the proliferation of non-consensual intimate imagery and child sexual abuse material online, which too often disproportionately impacts women and girls. Research has found that in just the month of February 2026, approximately 3 million sexualized images were generated in less than two weeks, with 23,000 depicting children. The Brennan Center for Justice further found that, in politics, women serving in state legislatures reported four times the amount of online sexual abuse than their male counterparts. The effects of this type of imagery can cause serious mental health impacts and psychological harm, including post-traumatic stress disorder, depression, and suicidal ideation, as well as, physical harm, including harassment and violence. AB 1705 critically protects women and girls by creating accountability for the uploading of any sexual content to pornographic website to include the clear consent of all depicted individuals.

#### 10. Arguments in opposition

According to the CCIA and TechNet:

AB 1705 defines a “pornographic internet website” as any website that “permits users to upload, or solicits from users, sexually explicit content.”

Arguably, this definition is not limited to websites whose primary purpose is to offer sexually explicit content or have stated in their terms of service that sexually explicit content may be uploaded by users for viewing. Instead, it captures any service that allows user uploads where such content may appear, including platforms that prohibit sexually explicit content, invest heavily in detection and

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<sup>56</sup> E.g., Kang, Mac, & Tan, *Meta and YouTube Found Negligent in Landmark Social Media Addiction Case* (Mar. 25, 2026) New York Times, available at <https://www.nytimes.com/2026/03/25/technology/social-media-trial-verdict.html>; McQue, *Meta ordered to pay \$375 million after being found liable in child exploitation case* (Mar. 24, 2026) The Guardian, <https://www.theguardian.com/technology/2026/mar/24/meta-new-mexico-jury>. On June 9, 2026, Judge Carolyn B. Kuhl denied Meta and YouTube’s motion for judgment notwithstanding the verdict (JNOV) and for a new trial in a Los Angeles Superior Court case in which a jury found that Meta and YouTube were liable for negligently designing harmful products. (*See Social Media Cases*, Case No. JCCP5255 (Lead Case: 22STCV21355) Order filed Jun. 9, 2026.) The order rejected the companies’ Section 230 preemption arguments (again) on the basis that “there was substantial evidence that Plaintiff was harmed by the design features of [the platforms], regardless of any of the content found on that platform.” (*Id.* at p. 4.)

removal systems, and where users encounter such content only incidentally through user behavior.

To address this threshold issue, the bill should be amended to exclude operators that maintain and enforce written policies against sexually explicit content. We respectfully request that the following language be added:

22618.

- (a) An operator shall not be deemed to operate a pornographic internet website if:
- (1) The operator maintains and enforces written policies prohibiting sexually explicit content;
  - (2) The operator employs reasonable and proportionate content moderation measures to detect and remove sexually explicit content; and
  - (3) The operator responds promptly to reports of sexually explicit content and removes such content within a reasonable timeframe upon verification that the content violates the operator's policies.

#### **SUPPORT**

American Association of University Women of California  
California Catholic Conference  
California Commission on the Status of Women and Girls  
California District Attorneys Association  
California Initiative for Technology & Democracy  
Children's Advocacy Institute at the University of San Diego School of Law  
Oakland Privacy

#### **OPPOSITION**

CCIA  
Technet  
One individual

#### **RELATED LEGISLATION**

##### **Pending legislation:**

AB 1946 (Wicks, 2026) modifies the enforcement mechanisms for the existing requirement that social media platforms maintain a reporting mechanism through which California users may report CSAM, authorizes public prosecutors to bring civil actions against noncompliant platforms, and modifies definitions, reporting standards,

and compliance timelines. AB 1946 is pending before the Senate Privacy, Digital Technologies, and Consumer Protection Committee.

AB 2 (Lowenthal, 2025) increases the penalties that can be sought against a social media platform, as defined, if the platform fails to exercise ordinary care or skill and injures a child. AB 2 is pending before the Senate Privacy, Digital Technologies, and Consumer Protection Committee.

Prior legislation:

AB 1137 (Krell, 2025) would have expanded on AB 1394 (Wick, Ch. 579, Stats. 2023) to allow any user to report CSAM, enable public enforcement when no reporting mechanism is available, and require third-party audits for platforms that take advantage of a safe harbor provision. AB 1137 died in the Assembly Appropriations Committee.

AB 621 (Bauer-Kahan, Ch. 673, Stats. 2025) modified the provisions put in place by AB 602 (Berman, Ch. 491, Stats. 2019) relating to nonconsensual sexual material to include a cause of action against a person who knows, or reasonably should know, that the digitized sexually explicit material depicts a person who is a minor at the time it was created, and adds a cause of action against a person who knowingly or recklessly aids or abets the creation or disclosure of such material.

AB 392 (Dixon, 2025) was substantially similar to this bill and is discussed in Comment 7 of this analysis. AB 392 died in the Senate Appropriations Committee.

SB 646 (Cortese, 2024) would have allowed a person who is depicted in certain sexual images when the person was less than 18 years of age to bring a civil action for specified relief against a person or entity that distributes that material, as specified; and would have required the operator of an online service or website to list an agent for notification of claimed violation of the provisions related to CSAM, as specified. SB 646 died in the Assembly Appropriations Committee.

AB 3172 (Lowenthal, 2024) would have made a social media platform, as defined, liable for specified civil penalties if the platform knowingly and willfully failed to exercise ordinary care or skill toward the child, in an action brought by a public prosecutor. AB 3172 died in this Committee.

AB 1394 (Wick, Ch. 579, Stats. 2023) required a social media platform, as defined, to provide a reporting mechanism for suspected child sexual abuse material and required a social media platform to permanently block that material, as provided; and prohibited a social media platform from knowingly facilitating, aiding, or abetting the commercial sexual exploitation of a minor.

AB 602 (Berman, Ch. 491, Stats. 2019) allowed a person who is depicted in nonconsensual deepfake pornography to bring a civil action for damages against a person who intentionally creates or distributes the material.

**PRIOR VOTES**

Assembly Floor (Ayes 72, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 15, Noes 0)

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