

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

AB 1705 (Bauer-Kahan and Dixon) – As Introduced February 4, 2026

**SUBJECT:** PORNOGRAPHIC INTERNET WEBSITES

**KEY ISSUE:** SHOULD OPERATORS OF COMMERCIAL PORNOGRAPHY WEBSITES BE REQUIRED TO TAKE REASONABLE STEPS TO PREVENT THE UPLOAD OF NONCONSENSUAL OR UNDERAGE SEXUALLY EXPLICIT CONTENT AND BE SUBJECT TO CIVIL LIABILITY WHEN THAT CONTENT IS PUBLISHED ON THEIR PLATFORMS?

**SYNOPSIS**

*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, major gaps remain in the current legal framework—particularly in the context of commercial pornography websites that host vast volumes of user-generated content. Seeking to address the largely unregulated world of user generated sexual content, last year AB 392 (Dixon, 2025) was introduced seeking to enact a legal framework to ensure sexual content posted online was consensual and by two persons past the age of majority. That bill, which passed out of the Assembly with zero “no” votes, was held on the Senate Appropriations suspense file citing costs to local prosecutors and the courts.*

*Building on the efforts of AB 392, this bill, the RECLAIM (Removing Exploitative Content Through Legal Accountability for Image Misuse) Act, addresses user generated sexual content by establishing an enforceable duty of care for operators of commercial pornographic websites. The bill requires platforms to implement a pre-upload compliance 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. This measure is supported by privacy groups and advocacy groups for survivors of sexual exploitation. There is no registered opposition. This bill was previously heard by the Assembly Committee on Privacy and Consumer Protection which voted unanimously to approve the bill.*

**SUMMARY:** Establishes civil liability for commercial pornographic websites that host sexually explicit content involving individuals who did not consent to the depiction, did not consent to the uploading, or were minors at the time of the content’s creation. Specifically, **this bill:**

1) Defines the following:

- a) “Depicted individual” is an individual depicted as nude or as engaging in sexual acts in sexually explicit content who meets any of the following:
  - i) The individual did not consent to being depicted.
  - ii) The individual was a minor at the time the content was created.
  - iii) The individual did not consent to the uploading of the content to a pornographic internet website.

- b) "Internet website" does not include either:
    - i) A service or application that provides email or direct messaging, on the basis of that function alone.
    - ii) A service or application that provides cloud storage, file transfer services, or file collaboration, on the basis of that function alone.
  - c) "Operator" is a person who operates a pornographic internet website.
  - d) "Pornographic internet website" is a website that permits or solicits users to upload, sexually explicit content for display on the website.
  - e) "Sexually explicit content" is visual or audiovisual work, including, but not limited to, imagery created or substantially altered through digitization, that shows a depicted individual or substantially altered through digitization, that shows a depicted individual or depicted individuals in the nude or engaging in sexual conduct that taken as a whole lacks serious literary, artistic, or scientific value.
  - f) "User" is a person or entity that uploads or otherwise provides sexually explicit content to a pornographic internet website.
- 2) Requires an operator to exercise reasonable diligence to ensure that any content uploaded to the operator's website does not include a depicted individual.
  - 3) Requires an operator to take reasonable steps to ensure that any content uploaded to the operator's website does not include a depicted individual.
  - 4) Requires a user uploading content to submit all of the following:
    - a) A statement, under penalty of perjury, that any individual depicted meets all of the following criteria:
      - i) Was not a minor at the time the content was created.
      - ii) Consents to the content being uploaded.
      - iii) Consented to being depicted in the content.
    - b) Information sufficient to enable the operator to contact the user.
  - 5) Establishes a presumption that the operator violated 2) if the operator does not obtain the statement required in a) of 4).
  - 6) Establishes a \$1,000 fine for a user who knowingly provides false information in a) of 4).
  - 7) Authorizes a depicted individual who is harmed as a result of sexually explicit content being displayed on a pornographic internet website to bring a civil action against the operator of the website and the user who uploaded the content.
  - 8) A prevailing plaintiff is entitled to all of the following:

- a) Actual damages or statutory damages up to \$75,000 per violation, whichever amount is greater.
  - b) Punitive damages.
  - c) Attorney's fees and costs.
  - d) Any other available relief, including injunctive relief.
- 9) A public prosecutor may bring a civil action to enforce this statute to obtain the following relief:
- a) A civil penalty of up to \$25,000 per violation.
  - b) Injunctive and other equitable relief.
  - c) Attorney's fees and costs.
  - d) Any other relief the court deems appropriate.
- 10) Establishes that each day an operator is in violation of this Section constitutes a separate violation.

**EXISTING LAW:**

- 1) Prohibits a person who intentionally distributes the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, 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. (Penal Code Section 647 (j)(4)(A).)
- 2) Creates a private right 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. (Civil Code Section 1708.85 (a).)
- 3) Defines "intimate body part" as any portion of the genitals, and, in the case of a female, also includes any portion of the breast below the top of the areola, that is uncovered or visible through less than fully opaque clothing. (Civil Code Section 1708.85 (b).)
- 4) Exempts the person distributing material from liability pursuant to the above under any of the following circumstances:
  - a) The distributed material was created under an agreement by the person appearing in the material for its public use and distribution or otherwise intended by that person for public use and distribution;

- b) The person possessing or viewing the distributed material has permission from the person appearing in the material to publish by any means or post the material on an Internet Web site;
  - c) The person appearing in the material waived any reasonable expectation of privacy in the distributed material by making it accessible to the general public;
  - d) The distributed material constitutes a matter of public concern;
  - e) The distributed material was photographed, filmed, videotaped, recorded, or otherwise reproduced in a public place and under circumstances in which the person depicted had no reasonable expectation of privacy; or
  - f) The distributed material was previously distributed by another, except where the person has received notice from the depicted individual to cease distribution, as specified. (Civil Code Section 1708.85 (c).)
- 5) Authorizes the court to award specified remedies and to issue a temporary restraining order, or a preliminary injunction or a permanent injunction against the defendant, ordering the defendant to cease distribution of material. (Civil Code Section 1708.85 (d), (e).)
- 6) Provides 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 (“depicted individual”) a cause of action against a person who does either of the following:
- a) Creates and intentionally discloses sexually explicit material and the person knows or reasonably should have known the depicted individual in that material did not consent to its creation or disclosure; or,
  - 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. (Civil Code Section 1708.86.)
- 7) Defines “sexually explicit material,” for the purposes of the above action, to mean 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, as those terms are defined. (Civil Code Section 1708.86 (a).)
- 8) Exempts a person from liability in the above action if the person discloses the sexually explicit material in the course of reporting unlawful activity; exercising the person’s law enforcement duties; or in hearings, trials, or other legal proceedings. The person is also exempt if the material is any of the following:
- a) A matter of legitimate public concern;
  - b) A work of political or newsworthy value or similar work; or

- c) A commentary, criticism, or disclosure that is otherwise protected by the California Constitution or the United States Constitution. (Civil Code Section 1708.86 (c).)
- 9) Authorizes the court to award specified remedies to a prevailing plaintiff that suffers harm, including economic and noneconomic damages or statutory damages. (Civil Code Section 1708.86.)
- 10) Provides, pursuant to federal law, that no provider or user of a website shall be treated as the publisher or speaker of any information provided by another information content provider, and that no provider of a website shall be held liable on account of any action voluntarily taken in good faith to restrict the availability of materials that the provider determines to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected. (47 U.S.C. Section 230 (c) (Section 230).)
- 11) Provides, pursuant to federal law, that no cause of action may be brought and no liability may be imposed under any state or local law that is inconsistent with Section 230. (47 U.S.C. Section 230 (e).)
- 12) Authorizes, pursuant to federal law, any person who, while a minor, was a victim of a violation of 18 U.S.C. § 1589, 1590, 1591, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423, and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, to sue in any appropriate United States District Court and provides for recovery of the actual damages such person sustains or liquidated damages in the amount of \$150,000, and the cost of the action, including reasonable attorney's fees and other litigation costs reasonably incurred. The court may also award punitive damages and such other preliminary and equitable relief as the court determines to be appropriate. There is no statute of limitations for such actions. (18 U.S.C. Section 2255.)
- 13) Provides a right to free speech and expression. (U.S. Const., 1st amend; Cal. Const., art 1, Section 2.)
- 14) Requires, pursuant to federal law, adult content producers to maintain records verifying performers' ages and identities. (18 U.S.C. Section 2257.)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** Over the last decade, California has taken significant steps to address various forms of image-based sexual abuse, including nonconsensual pornography, child sexual exploitation, and more recently, AI-generated deepfake pornography. However, these efforts have not fully addressed the structural gaps that allow perpetrators to remain anonymous, content to proliferate unchecked, and leaves victims without meaningful recourse. The authors bring this bill, the RECLAIM Act, to address these gaps. As explained by the authors:

This bill would have a positive impact on the ability of underserved and marginalized communities to access the justice system. The impact of online harm such as image-based sexual abuse on its victims is profound. It causes women and girls to not only recede from spaces online, but in the public sphere altogether thus chilling their first amendment right to

free speech and participation. In addition, the victims suffer significant psychological harm, including post-traumatic stress disorder, depression, and suicidal ideation. AB 1705 establishes meaningful accountability for platforms that have long evaded responsibility by claiming ignorance of user-uploaded content. Most significantly, the bill provides depicted individuals the ability to hold the perpetrator and operators of pornographic websites accountable by affording the depicted individual the ability to bring civil action against either party or both.

***Proliferation of nonconsensual and deepfake pornography.*** The rise of easily accessible content creation and uploading tools, paired with mass distribution platforms like Pornhub, YouPorn, and OnlyFans has radically changed the landscape of digital sexual abuse. The internet has facilitated the rapid spread of nonconsensual images and videos—whether stolen, leaked, or AI-generated—often with no effective pathway for removal or redress.

Victims face an uphill battle: platforms frequently require extensive documentation to remove illegal content, take days or weeks to act on takedown requests, and rarely assist victims in identifying uploaders. With the emergence of generative artificial intelligence (GenAI), the problem has reached a new level of harm and scale. Deepfake pornography—explicit content digitally altered to resemble a real person’s face—has spread rapidly, affecting celebrities, teenagers, and private individuals alike.

The proliferation of nonconsensual and deepfake pornography is overwhelming. As discussed in the Privacy and Consumer Protection’s analysis of this measure:

In 2018, fewer than 2,000 deepfake pornography videos had been uploaded to the best-known deepfake streaming site; by 2022, that number had grown to over 13,000 with 16 million views every month. (Moirá Donegan, *Demand for deepfake pornography is exploding. We aren’t ready for this assault on consent*, The Guardian (Mar. 13, 2023).) By 2023, researchers had determined that in the previous seven years at least 244,625 deepfake image-based sexual abuse videos had been uploaded to the top 35 websites that had been set up to either exclusively or at least partially host deepfake pornography videos. In addition, over the first nine months of 2023, 113,000 videos were uploaded to these websites. (Matt Burges, *Deepfake Porn is Out of Control*, Wired (Oct. 16, 2023) available at: <https://www.wired.com/story/deepfake-porn-is-out-of-control/>.)

***This bill*** establishes a civil enforcement regime targeting the unauthorized depiction and distribution of sexually explicit content on commercial pornography platforms. The statutory scheme applies only to “pornographic internet websites” as defined, i.e., websites that permit or solicit users to upload sexually explicit content for display.

At the core of the bill is a new duty of care imposed on such operators. Operators must exercise “ordinary care” and 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. In practice, this duty is fulfilled by requiring users to submit (prior to upload) a signed statement under penalty of perjury 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 further required to collect identifying contact information from the uploading user. If an operator fails to obtain this certification from the uploader, a rebuttable presumption arises that the operator violated its obligations under the statute. A depicted individual who suffers harm as a result of violations of the provisions above, may bring a civil action against both the operator and the user. Public prosecutors may also bring an action against the operator or user.

***How this bill would work in practice.*** Imagine a woman discovers that an explicit video of her has been uploaded to a well-known commercial pornography website. She did not consent to being filmed and had no idea the video existed until a friend saw it online. She was 19 when the footage was secretly recorded, and she never agreed to have it posted anywhere, let alone on a public adult platform.

Under this bill, the platform hosting the video would have had a legal duty to take reasonable steps to prevent that upload from occurring in the first place. Before accepting the content, the platform should have required the uploader—let’s say a former boyfriend—to submit a signed declaration, under penalty of perjury, stating that the person in the video was not a minor, that she consented to being filmed, and that she consented to the video being posted online. The uploader would also need to provide contact information so that the platform could reach them if concerns arose later.

If the platform failed to collect that declaration, it would be presumed to have violated its legal duty. Even if it did collect the declaration, but otherwise did not take reasonable steps (e.g., using basic screening tools, human moderation, or content verification practices), it could still be liable.

The depicted individual can sue both the platform and the individual who uploaded the content. If she prevails, the court may award her up to \$75,000 in statutory damages per violation, or actual damages, plus punitive damages, attorneys’ fees, and injunctive relief to ensure the content is removed and not reposted. Alternatively, a public prosecutor could step in and bring an enforcement action, seeking civil penalties of \$25,000 per violation and a court order requiring broader compliance measures.

***Enforcement mechanisms.*** The bill provides a dual enforcement pathway: private rights of action and public enforcement. AB 1705 enables both a depicted individual and public prosecutor to bring claims against both 1) the *operator* of the site, for permitting the upload or display of content; and 2) the *user* who uploaded the content, provided the user knew or should have known it included a depicted individual.

The statute is clear that all remedies are cumulative and do not preclude claims under other laws, including rights under Civil Code Section 1708.85 (nonconsensual pornography), Section 1708.86 (deepfake or digitally altered sexual content), or other common law and statutory privacy protections.

***The First Amendment.*** This bill is drafted to regulate only commercial pornographic websites and focuses exclusively on issues of consent, minor status, and prompt removal upon notice. It

imposes duties on platforms to take reasonable steps to ensure that the content uploaded does not include a minor or someone who did not consent to its creation or its uploading. The bill requires uploaders to provide attestations of consent before permitting uploads of sexually explicit material. These obligations do not regulate expressive content based on viewpoint, nor do they prohibit publication of sexually explicit content altogether. Instead, they regulate the conditions under which such content may be lawfully uploaded, based on well-established state interests in preventing exploitation and abuse.

Courts have long held that sexually explicit but non-obscene content is protected by the First Amendment (*Reno v. ACLU* (1997) 521 U.S. 844), and that pornography involving consenting adults cannot be banned outright unless it meets the definition of obscenity under *Miller v. California* (1973) 413 U.S. 15. However, where the content involves actual minors or is uploaded or distributed without consent, the government’s interest in protecting individuals—especially minors—has repeatedly been recognized as compelling. In *New York v. Ferber* (1982) 458 U.S. 747, the Court upheld a categorical prohibition on child pornography, holding that the First Amendment does not prevent the government from banning such material—even if it is not obscene—because of the state’s compelling interest in “safeguarding the physical and psychological well-being of minors” (*Id.* at p. 756). Later, in *United States v. Williams* (2008) 553 U.S. 285, 297–305, the Court reaffirmed that laws targeting offers or solicitations to produce or distribute child pornography are not facially invalid where they do not reach lawful speech.

To the extent operators of adult websites argue that requiring uploader verification and consent documentation constitutes a prior restraint or imposes a chilling effect on expressive conduct, those claims are unlikely to succeed. The obligations imposed by this bill are not content-based bans. Rather, this bill contemplates procedural safeguards designed to prevent illegal or nonconsensual distribution—an area where courts have recognized diminished First Amendment protections. (*See Ferber, supra*, at pp. 761–763.)

Notably, in *Ashcroft v. Free Speech Coalition* (2002) 535 U.S. 234, the Supreme Court struck down portions of the Child Pornography Prevention Act of 1996 that banned depictions that “appear to be” of minors or were “pandered” as such. The Court emphasized that content created without involving real children cannot be criminalized simply because of its appearance or marketing. However, this bill does not attempt to regulate expressive content that “appears to be” nonconsensual or depicting a minor. Rather, it focuses on ensuring that content *actually* is nonconsensual or uploaded without consent—a distinction that both *Ashcroft* and *Williams* recognized as crucial in avoiding overbreadth. To the extent that highly realistic AI-generated images are technically depictions, that issue would be the only issue of first impression before the courts.

Recent litigation surrounding state age-verification laws for user access to pornography platforms raises distinct First Amendment questions. In *Free Speech Coalition v. Paxton* (2025) 606 U.S. 461, the Supreme Court held that Texas’s age-verification mandates for users seeking access to adult content only incidentally burdens adults’ right to protected speech and served the state’s important interest of shielding minors from sexually explicit content. By contrast, AB 1705 imposes duties on uploaders, who seek to disseminate sexually explicit material—often for commercial gain, often involving others whose consent to the underlying act and legal status who’s must be verified. While the Supreme Court has not held that the monetization of adult content alone places it within the category of commercial speech subject to reduced protection under *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm’n* (1980) 447 U.S. 557), courts

have long upheld procedural obligations imposed on platforms and producers where speech implicates the rights of third parties—particularly where the content involves minors or is disseminated without consent. This bill imposes obligations on platforms and uploaders based on the risks of nonconsensual dissemination and exploitation uniquely associated with sexually explicit content. While the regulation is content-based in the First Amendment sense, it should likely survive strict scrutiny because it serves a compelling government interest—protecting privacy, bodily autonomy, and minors—and is narrowly tailored to that interest. Courts have upheld similar regulation where the focus is on preventing third-party harm, as in *Ferber, supra*, 458 U.S. 747 and *Williams, supra*, 553 U.S. 285.

**Section 230 Preemption.** Since the rise of social media and user-generated content platforms, courts have grappled with the scope of immunity under Section 230(c)(1) of the Communications Decency Act, which prohibits treating online platforms as the “publisher or speaker” of third-party content. While early decisions interpreted this provision expansively, subsequent case law has clarified that immunity does not apply where a platform materially contributes to illegal content or is sued for conduct separate from its role as a publisher.

In *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC* (2008) 521 F.3d 1157, the Ninth Circuit held that a housing platform was not immune under Section 230 where it required users to answer discriminatory questions and used that information to match roommates. The court explained that an online platform may be both a service provider and a content provider—and loses Section 230 protection when it “is responsible, in whole or in part, for the creation or development of content.” (*Id.* at p. 1163.)

Subsequently, in *Barnes v. Yahoo!, Inc.* (9th Cir. 2009) 570 F.3d 1096, the court articulated a three-part test for determining Section 230 protection. The court held that immunity applies only when (1) the defendant is a provider or user of an interactive computer service; (2) the plaintiff’s claim seeks to treat the defendant as the publisher or speaker; and (3) the content in question was provided by another information content provider. (*Id.* at pp. 1100–1101.)

More recently, in *Twitter, Inc. v. Taamneh* (2023) 143 S.Ct. 1206, the U.S. Supreme Court rejected a theory of aiding and abetting liability against social media platforms for terrorist content, holding that mere failure to prevent or remove harmful content—without more active participation—was insufficient to state a claim. The Court emphasized that treating platforms as culpable based solely on knowledge of misuse would “effectively hold any sort of communications provider liable for any sort of wrongdoing merely for knowing that the wrongdoers were using its services and failing to stop them.” (*Id.* at p. 1213.)

Taken together, these cases clarify that while Section 230 provides broad protection for hosting third-party content, it does not shield platforms from liability for their own conduct, including where they develop, solicit, or materially contribute to unlawful activity.

In this context, it is important to note that this bill imposes liability only where an operator of a commercial pornographic website:

- Fails to obtain a declaration and contact information from a user attesting, under penalty of perjury, that all depicted individuals were adults who consented to both the depiction and uploading of the content;

- Fails to exercise reasonable diligence and take reasonable steps to ensure that sexually explicit content uploaded to its platform does not include a “depicted individual,” as defined.

This bill may invite challenges under Section 230 because it touches on a highly litigated and evolving area of law: civil liability for online platforms in connection with user-generated content. While it is difficult to predict with certainty how courts will continue to interpret Section 230 in this evolving context, the bill is structured in a manner that is likely to withstand preemption challenges.

Liability under this bill is grounded in an operator’s own failure to comply with affirmative legal obligations, not in the content of any specific post or the decision to publish or remove it. The proposed Business and Professions Code Section 22614 imposes an independent duty on commercial pornographic websites to take reasonable steps to *prevent the upload* of sexually explicit content involving individuals who did not consent or who were minors at the time of creation. This includes a mandatory *pre-upload* verification process requiring users to submit attestations under penalty of perjury and provide contact information.

Courts have held that Section 230 immunity does not apply where a claim arises from a platform’s own conduct, as opposed to its role in disseminating third-party speech. In *Fair Housing Council v. Roommates.com, LLC* (9th Cir. 2008) 521 F.3d 1157 (en banc), the Ninth Circuit denied immunity where the platform materially contributed to unlawful content by requiring users to submit discriminatory information. In *Doe v. Internet Brands, Inc.* (9th Cir. 2016) 824 F.3d 846, the court likewise held that a platform could be held liable for failing to warn users of known threats, where that duty existed independently of the platform’s publishing activities. Similarly, in *Barnes v. Yahoo!, Inc.* (9th Cir. 2009) 570 F.3d 1096, the court held that a promissory estoppel claim—based on Yahoo!’s express promise to remove defamatory content—was not preempted, because liability arose from the breach of a voluntary undertaking, not from Yahoo!’s role as a publisher. In contrast, the California Supreme Court in *Hassell v. Bird* (2018) 5 Cal.5th 522 found that an injunction compelling Yelp to remove third-party content was preempted, because it effectively treated the platform as the publisher of that content.

Together, these cases illustrate the critical distinction that Section 230 does not shield platforms from liability when *the claim arises from an independent legal duty or affirmative conduct*, but does bar claims that effectively impose editorial control obligations over user content.

*The duties imposed by this bill follow the conduct-based path:* operators are required to implement compliance mechanisms (such as collecting attestations and contact information). These obligations stem from the operator’s role as a commercial facilitator of user uploads—not from any editorial decision about what content to publish or suppress.

Nevertheless, because the bill’s verification provisions relate to the platform’s handling of third-party content, operators are likely to argue that the law conflicts with Section 230 and is therefore preempted. Courts remain divided on the scope of Section 230 in this context, and litigation risk is real. Still, by framing the statute around an operator’s failure to implement procedural safeguards, the bill is carefully tailored to regulate platform conduct, not content moderation—a distinction courts have upheld in analogous cases. Ultimately, courts have emphasized that Section 230 is not a “lawless no-man’s-land” allowing platforms to ignore

legally imposed obligations. (*HomeAway.com, Inc. v. City of Santa Monica* (9th Cir. 2018) 918 F.3d 676, 683.) To the extent plaintiffs pursue claims against an operator solely for hosting third-party content, Section 230 may still apply. But where liability arises from an operator's failure to verify uploader information, Section 230 immunity is unlikely to attach.

In sum, while Section 230 may be raised as a defense, it should not shield operators from liability under this statute when claims are properly framed to focus on the operator's failure to fulfill affirmative statutory duties, rather than its decisions to publish, remove, or retain user content.

**ARGUMENTS IN SUPPORT:** This bill is supported by privacy-advocacy groups and organizations focused on women, children, and survivors of sexual exploitation. California Survivor Coalition note:

Human trafficking and commercial sexual exploitation increasingly intersect with digital platforms, where images and videos of exploitation can be distributed rapidly, widely, and often without meaningful consent. For survivors, this creates ongoing harm long after the initial abuse, as exploitative material may continue to be shared, reposted, and viewed indefinitely.

Consumer Attorneys of California write:

Image-based sexual abuse has been amplified by digital platforms and emerging technologies, causing profound psychological harm and silencing victims' participation both online and in public life. AB 1705 takes an important step toward restoring accountability by ensuring that platforms cannot continue to profit from or ignore the widespread distribution of exploitative content.

AB 1705 establishes clear, reasonable responsibilities for website operators to verify consent and exercise due diligence over uploaded content, helping prevent the spread of abuse before it occurs. By requiring certifications under penalty of perjury and imposing a duty of care, this bill creates meaningful incentives for platforms to prioritize safety and transparency.

Children's Advocacy Institute support, with a suggested amendment:

Because of the litigiousness of technology companies in suing to block or overturn almost any law they cannot persuade legislators to vote against, it would be wise for this bill to include a severability clause.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Catholic Conference  
California Commission on the Status of Women & Girls  
California District Attorneys Association  
California Initiative for Technology & Democracy  
California Survivor Coalition  
Children's Advocacy Institute

Consumer Attorneys of California  
Oakland Privacy

**Opposition**

None on file

**Analysis Prepared by:** Griff Ryan-Roberts / JUD. / (916) 319-2334