

SENATE PRIVACY, DIGITAL TECHNOLOGIES, AND CONSUMER PROTECTION COMMITTEE
Senator Christopher Cabaldon, Chair
2025-2026 Regular Session

AB 1705 (Bauer-Kahan and Dixon)

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Fiscal: Yes

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BD

SUBJECT

Pornographic internet websites.

DIGEST

This bill requires operators of pornographic internet websites to exercise a duty of ordinary care and take reasonable steps to prevent the upload of nonconsensual or underage sexually explicit content to their websites.

EXECUTIVE SUMMARY

Tragically, the internet is rife with nonconsensual intimate imagery (NCII) and child sexual abuse material (CSAM). Once online, both NCII and CSAM can spread at alarming rates, leaving survivors with the nigh impossible task of ridding material from the internet. Each second of exposure can lead to significant harm for survivors. Exacerbating this issue is the fact that platforms and offenders alike will almost certainly avoid accountability and penalties.

This bill seeks to protect survivors and provide accountability to pornographic internet websites by establishing a duty of care for pornographic internet websites to take reasonable steps to ensure that any sexually explicit content uploaded does not feature a minor and was consensual. The bill requires users to submit a statement, under the penalty of perjury, that the content is not NCII or CSAM and that the individual in the content consented to its upload. The bill further requires operators to retain the statement and verify the user's email address prior to any upload. Lastly, the bill outlines comprehensive enforcement by providing both a private right of action for depicted individuals and public enforcement.

This bill is author-sponsored and supported by a wide array of child safety, survivor, and digital safety groups, including the American Association of University Women – California. It is opposed by TechNet and the Computer & Communications Industry Association. This bill passed the Senate Judiciary Committee on a vote of 11 to 0.

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. (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.
 - 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. 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) Requires an operator of a pornographic internet website to exercise ordinary care 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.
- 2) Requires an operator of a pornographic internet website to exercise ordinary care and take reasonable steps to ensure that each instance of sexually explicit content displayed on the operator's pornographic website does not include a depicted individual.
- 3) Requires a user, before uploading sexually explicit content to a pornographic internet website, to submit the following to the operator:
 - a) A statement, certifying under the penalty of perjury, that each individual depicted in the sexually explicit content was not a minor at the time the content was created; consents to the sexually explicit content being uploaded; and consented to being depicted in the content.
 - b) Information sufficient to enable the operator to contact the user.
- 4) Provides that an operator who does not obtain the above statement is presumed to have violated their duty of care. Provides that knowingly providing false information in the above statement is an infraction punishable by a \$1,000 fine.

- 5) Requires an operator of a pornographic internet website to verify a user's email address before permitting the upload of sexually explicit content to the website.
- 6) Provides that a depicted individual who suffers harm as a result of sexually explicit content depicting them being displayed on a pornographic internet website may bring a civil action against the operator of the pornographic internet website if the operator allowed that content to be uploaded to, or displayed on, its pornographic internet website in violation of the above provisions and may bring a civil action against the user for uploading sexually explicit content that the user knew, or should have known, included a depicted individual for the following relief:
 - a) Actual damages or statutory damages in an amount that is not greater than \$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.
- 7) Provides that a public prosecutor may bring a civil action to enforce the above provisions.
- 8) Provides that each full calendar day that sexually explicit content is uploaded or displayed in violation of the above provisions remains accessible on the pornographic internet website constitutes a separate violation of this chapter.
- 9) 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:
 - i) The individual did not consent to being depicted in the sexually explicit content.
 - ii) The individual was a minor at the time the sexually explicit content was created.
 - iii) When the sexually explicit content was uploaded to the pornographic internet website, the individual did not consent to that uploading.
 - b) "Digitization" means a process by which any of the following are realistically depicted:
 - i) The nude body parts of another human being as the nude body parts of the depicted individual.
 - ii) Computer-generated nude body parts as the nude body parts of the depicted individual.
 - iii) The depicted individual engaging in sexual conduct in which the depicted individual did not engage.
 - c) Provides that an internet website does not include either of the following:

- i) A service or application that provides email or direct messaging services, 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.
- d) "Pornographic internet website" means an internet website that permits users to upload, or solicits from users, sexually explicit content for display on the internet website.
- e) "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. Provides that "sexually explicit content" does not include content that, taken as a whole, has serious literary, artistic, or scientific value.

COMMENTS

1. The tragic prevalence of NCII and CSAM online

The advent of the internet has spurred a new era of content creation and access. However, as new technologies continue to emerge and proliferate, so too do their increasingly harmful uses. Such is the case with digital sexual abuse, as, in the digital age, the creation, trade, and production of nonconsensual intimate imagery (NCII) are rampant online. There are numerous categories of NCII, each presenting its own horrifying nature:

NCII abuse refers to image-based sexual abuse or nonconsensual pornography. More colloquially, it is called "revenge porn," though that term is typically used when the image is published by a former intimate partner; NCII abuse perpetrators are not always intimately involved with the victim. Nonconsensually produced intimate images can either be produced without the victim's knowledge or self-generated by grooming or pressuring a victim into production. If an intimate image is produced consensually, NCII abuse can occur by publishing or reproducing those images without consent.¹

Likewise, CSAM is equally pervasive online. CSAM refers to any visual depiction of sexually explicit conduct involving a person under the age of 18. As outlined by the United States Department of Justice, CSAM is one of the most heinous crimes:

¹ Trudi K. Sundberg, *Federalizing NCII Regulation: The TAKE IT DOWN Act's Approach to Criminalization, Platform Liability, and Threats to Disseminate* (2024) Georgia Law Review 59(3), 1207-1232, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/geolr59§ion=35. All internet citations are current as of June 24, 2026.

Underlying every sexually explicit image or video of a child is abuse, rape, molestation and/or exploitation. The production of CSAM creates a permanent record of the child's victimization.²

CSAM is also rapidly disseminated once it is uploaded, with one article noting that approximately 500 CSAM files are traded per minute.³ Once online, both NCII and CSAM are appallingly persistent. For instance, the National Center for Missing & Exploited Children (NCMEC) noted in its 2025 CyberTipline Report that one individual had their CSAM spread for the past 20 years, appearing in more than 1.4 million removal submissions to the nonprofit.⁴

The effects of having one's NCII or CSAM exposed are disastrous. Survivors experience increased depression, anxiety, suicidal thoughts, paranoia, shame, humiliation, reputational damage, and occupational issues, among a host of other significant harms.⁵ These effects are long-lasting and have significant consequences for survivors:

Even if photos are not continuously reuploaded, the emotional aftereffects linger with a victim. The feelings of betrayal and humiliation that accompany the exposure of one's private images online can result in psychological damage, such as anxiety, depression, or PTSD. A victim of NCII abuse may also be subject to harassment and threats in person when their personal information-like a phone number, full name, or address-is "doxxed" or revealed in association with their photos. And of course, there are effects within the community that terrify so many victims in the first place - getting fired, losing relationships, or being ostracized.⁶

While the harms of NCII and CSAM apply to all survivors, they disproportionately impact women and girls and gender-nonconforming individuals, with women of color, women who work in stereotypically "male" fields, and bisexual women.⁷ The American Association of University Women of California, supporters of this bill, further add:

² *Child Sexual Abuse Material* (2021) Department of Justice, https://www.justice.gov/d9/2023-06/child_sexual_abuse_material_2.pdf.

³ Jessica McGarvie, *From Hashtag to Hash Value: Using the Hash Value Model to Report Child Sex Abuse Material* (May 6, 2023) Seattle Journal of Technology, Environmental & Innovation Law 13(2), <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1049&context=sjteil>.

⁴ 2025 CyberTipline Report (2026) National Center for Missing & Exploited Children, <https://www.missingkids.org/gethelpnow/cybertipline/cybertiplinedata>.

⁵ Trudi K. Sundberg, *Federalizing NCII Regulation: The TAKE IT DOWN Act's Approach to Criminalization, Platform Liability, and Threats to Disseminate* (2024) Georgia Law Review 59(3), 1207-1232, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/geolr59§ion=35.

⁶ *Ibid.*

⁷ 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/>.

The impact of 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.

2. An AI accelerant

The rapid advances in AI exacerbate the spread of NCII and CSAM. Users can use generative AI (GenAI) to create this material:

A more recent type of NCII is artificially created, or AI-generated, images. These fall into three main categories: fully synthetic images, "deepfake" images, and "nudified" images- all fairly similar but notably different in creation. A fully synthetic image is created by uploading actual images of a person into an AI database, which then generates entirely new images of that person. A "deepfake" is created by training an AI program with pictures of a reference target, which the AI then superimposes on or blends with an existing video or photo. A "nudified" image is created by using an AI program on an existing photo of a clothed person to make an identical image but with a realistic, AI-generated nude body. The implications of this kind of technology are sobering, as an offender no longer needs access to an actual nude image to disseminate what appears to be sexual content of a victim." Victims of this type of NCII production, many of whom are minors, are already speaking out about their horrifying experiences.⁸

The creation and spread of deepfake pornography has exploded in recent years. According to Wired:

At least 244,625 videos have been uploaded to the top 35 websites set up either exclusively or partially to host deepfake porn videos in the past seven years, according to the researcher, who requested anonymity to avoid being targeted online.

Over the first nine months of this year, 113,000 videos were uploaded to the websites – a 54 percent increase on the 73,000 videos uploaded in all of 2022. By the end of [2023], the analysis forecasts, more videos will have

⁸ Trudi K. Sundberg, *Federalizing NCII Regulation: The TAKE IT DOWN Act's Approach to Criminalization, Platform Liability, and Threats to Disseminate* (2024) Georgia Law Review 59(3), 1207-1232, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/geolr59§ion=35.

been produced in 2023 than the total number of every other year combined.⁹

In 2024, X had to block searches of Taylor Swift's name to combat the rapid dissemination of explicit deepfakes depicting the pop star.¹⁰ Across the United States, students themselves are creating GenAI CSAM of their classmates. As noted by the New York Times:

Boys in several states have used widely available “nudification” apps to pervert real, identifiable photos of their clothed female classmates, shown attending events like school proms, into graphic, convincing-looking images of the girls with exposed A.I.-generated breasts and genitalia. In some cases, boys shared the faked images in the school lunchroom, on the school bus or through group chats on platforms like Snapchat and Instagram, according to school and police reports.

Such digitally altered images — known as “deepfakes” or “deepnudes” — can have devastating consequences. Child sexual exploitation experts say the use of nonconsensual, A.I.-generated images to harass, humiliate and bully young women can harm their mental health, reputations and physical safety as well as pose risks to their college and career prospects. Last month, the Federal Bureau of Investigation warned that it is illegal to distribute computer-generated child sexual abuse material, including realistic-looking A.I.-generated images of identifiable minors engaging in sexually explicit conduct.¹¹

On December 29, 2025, the social media platform X announced that users would be able to edit posted images using its AI, Grok, with a single click. From that date to January 9, 2026, it is estimated that Grok generated approximately 3 million sexualized images, which corresponds to an average of 190 images per minute. 23,000 appeared to depict children, reflecting a pace of one per 41 seconds. According to the Center for Countering Digital Hate, an estimated 29 percent of sexualized images of children remained publicly accessible on January 15, 2026.¹²

⁹ Matt Burgess, *Deepfake Porn is Out of Control* (October 16, 2023) Wired, <https://www.wired.com/story/deepfake-porn-is-out-of-control/>.

¹⁰ Mallory Moench, *Taylor Swift Searches Blocked by X Amid Circulation of Deepfakes* (January 28, 2024) Time Magazine, <https://time.com/6589487/taylor-swift-searches-blocked-x-twitter-deepfakes-response/>.

¹¹ Natasha Singer, *Teen Girls Confront an Epidemic of Deepfake Nudes in Schools* (April 8, 2024) New York Times, <https://www.nytimes.com/2024/04/08/technology/deepfake-ai-nudes-westfield-high-school.html>.

¹² *Grok Floods X with Sexualized Images of Women and Children* (2026) Center for Countering Digital Hate, <https://counterhate.com/research/grok-floods-x-with-sexualized-images/#about>.

At the same time, advances in technology have brought forth exceptional tools in the fight to rid the internet of NCII and CSAM. Hash-matching, which is the creation of a digital footprint of images, is a well-established technology used to prevent the upload of known NCII and CSAM.¹³ Perceptual hashing, a derivative of hash-matching, is a recent technology that allows for hash generation that is resistant to minor modifications.¹⁴ Machine learning classifiers can detect explicit imagery and whether the imagery depicts a minor.¹⁵ More recently, the United Kingdom's Prime Minister called on Apple and Google to implement built-in features or software in their devices to prevent children from creating, distributing, and viewing CSAM.¹⁶

3. Pornography websites

While NCII and CSAM appear on many different platforms, such as the example of Grok and X, both are known to regularly appear on pornography websites. Pornography websites pose particular challenges in identifying NCII and CSAM, as it can be challenging to ascertain whether or not user content is NCII or CSAM. At the same time, however, many pornography websites allow users to download sexually explicit content. This can lead to a viral spread of NCII or CSAM that is nigh impossible to stop, as videos may be continuously uploaded.¹⁷ The New York Times explains the consequences of this:

Many graphic nonconsensual images and photos end up on pornographic websites, even if not initially posted there. If these websites allow for downloads - and many of them do - the nonconsensual intimate content is essentially impossible to scrape completely away, since anything taken down can easily be reuploaded. One victim of sexual and NCII abuse said that a pornographic website "became [her] trafficker," as videos of her abuse ended up on the site and still regularly reappear there.¹⁸

Following this New York Times article, Pornhub removed all unverified content from its website. This effectively removed millions of videos.

¹³ *Technical Innovation: How Thorn uses technology to transform child protection with a safer internet* (July 8, 2025) Thorn, <https://www.thorn.org/blog/how-thorns-csam-classifier-uses-artificial-intelligence-to-build-a-safer-internet/>.

¹⁴ Sophie Mortimer et al., *Ten Years of the Revenge Porn Helpline* (2025), <https://link.springer.com/book/10.1007/978-3-032-00614-1>.

¹⁵ *Ibid.*

¹⁶ Zoe Kleinman, *Starmer tells Apple and Google to ban nude images on children's phones* (June 8, 2026) BBC, <https://www.bbc.com/news/articles/cly752ydw6o>.

¹⁷ Nicholas Kristof, *The Children of Pornhub* (December 4, 2020) New York Times, <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>.

¹⁸ Trudi K. Sundberg, *Federalizing NCII Regulation: The TAKE IT DOWN Act's Approach to Criminalization, Platform Liability, and Threats to Disseminate* (2024) Georgia Law Review 59(3), 1207-1232, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/geolr59§ion=35.

In 2025, the Legislature considered AB 392 (Dixon), which was substantially similar to this bill. It specified that operators of pornographic internet websites have a duty of care and ordinary diligence to ensure that sexually explicit content is not NCII or CSAM. It further required that operators take reasonable steps to ensure this by requiring users, prior to upload, to submit a statement, under the penalty of perjury, that the uploaded content was not NCII or CSAM. AB 392 also would have provided remedies to depicted individuals, who were defined as individuals in sexually explicit content who did not consent to being in the content, did not consent to the upload of the content, or were a minor at the time the content was created. However, AB 392 was held in the Senate Appropriations Committee.

4. What this bill does

This bill, recognizing the substantial harms of NCII and CSAM, would enact similar provisions to AB 392. This bill requires pornographic internet website operators to exercise ordinary care and reasonable diligence to ensure that each instance of sexually explicit content does not include anyone under the age of 18 or an individual who did not consent to the creation and upload of the content. The bill also requires operators to take reasonable steps to ensure that each instance of sexually explicit content does not include anyone under the age of 18 or contain an individual who did not consent to the creation and upload of the content.

The bill, for uploads of sexually explicit content, requires users to submit, under penalty of perjury, a statement verifying that all individuals depicted in the nude or engaging in sexual acts were not minors at the time of creation, consented to being in the content, and consented to its upload. Knowingly providing a false statement constitutes an infraction punishable by a \$1,000 fine. This bill further requires operators to retain the statement and information provided by users for at least 7 years and requires email verification before uploading sexually explicit content to the website.

Lastly, this bill provides that a depicted individual who suffers harm from having their sexually explicit content displayed on a pornographic internet website may bring a civil action against an operator and a user for specified damages. Each full calendar day that the content is uploaded or displayed constitutes a separate violation.

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.

While this bill and AB 392 (Dixon, 2025) are largely similar, there is one key difference. AB 392 defined pornographic internet websites as “an internet website that the owner or operator of the internet website holds out as featuring sexually explicit content or invites users to upload, or solicits from users, sexually explicit content for display on the internet website”. Contrastingly, this bill defines a pornographic internet website as “an internet website that permits users to upload, or solicits from users, sexually explicit content for display on the internet website”. The difference between these two definitions is that AB 392 only applied to dedicated pornography websites, such as Pornhub, XVideos, and others, while this bill would arguably apply to a broader universe of platforms, like X. As explained by TechNet and the Computer & Communications Industry Association:

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

While many platforms may have policies prohibiting the upload of NCII and CSAM, these images regularly appear on them. Take X’s 3 million uploads of NCII, for instance. The application of this bill’s provisions to these broader platforms may, therefore, be warranted. On the other hand, while some platforms may permit users to upload NCII and CSAM, it is a far cry from the vast majority of their uploads. As such, platforms may overregulate, leading to a situation where some content is suppressed. However, as aptly noted by the Senate Judiciary Committee in the context of the First Amendment:

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? [...]

There is one immutable fact: without greater efforts, NCII and CSAM will continue to plague the internet. This bill clearly furthers the goal of combating both NCII and CSAM, marking an important step in protecting survivors.

5. Stakeholder positions

The California Initiative for Technology and Democracy writes in support:

Social media is awash in sexually explicit content, much of it created or uploaded without consent. While much of this content is illegal and certainly harmful to those depicted in it, and while there are state and national laws that make creating or sharing such content a crime, it is often impossible to find the posters and social media platforms and websites. Even with the 2025 federal TAKE IT DOWN Act, these platforms have been able to avoid some responsibility for these images. Unfortunately, nonconsensual sexually explicit content continues to proliferate online.

AB 1705 creates clear requirements for both pornographic website operators and users to prevent the proliferation of such content, explicitly requiring website operators to exercise ordinary care and reasonable diligence, in addition to seeking identification from its posters and requiring them to certify that the persons depicted in the images have consented. If the operator fails to obtain the required user certification, they are presumed to have violated their duty of care. The bill importantly provides strong penalties for failure to comply.

Writing in opposition, TechNet and the Computer & Communications Industry Association suggest the following:

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 - California
California District Attorneys Association
California Family Council
California Initiative for Technology & Democracy, a Project of California Common
CAUSE
Children's Advocacy Institute
Oakland Privacy

OPPOSITION

Computer & Communications Industry Association
TechNet

RELATED 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 this Committee.

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) *See* Comment 3.

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 the Senate Judiciary 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)
