
THIRD READING

Bill No: AB 1705
Author: Bauer-Kahan (D) and Dixon (R)
Amended: 7/1/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/16/26

AYES: Umberg, Niello, Allen, Caballero, Durazo, Laird, Reyes, Stern,
Valladares, Wahab, Wiener

NO VOTE RECORDED: Ashby, Weber Pierson

SENATE PRIV., DIGITAL TECH. & CONS. PROT. COMMITTEE: 9-0, 6/29/26

AYES: Cabaldon, Seyarto, Gonzalez, McNerney, Ochoa Bogh, Padilla, Reyes,
Umberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26

AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 72-0, 5/21/26 - See last page for vote

SUBJECT: Pornographic internet websites

SOURCE: Author

DIGEST: This bill specifies that the operator of a website 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, as defined, 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.

ANALYSIS:

Existing federal law:

- 1) Establishes the Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks (TAKE IT DOWN) Act, which 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, as defined, including a digital forgery, under specified circumstances. (47 United States Code (U.S.C.) § 223(h)(2) & (3).)
- 2) 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. (47 U.S.C. 223a.)
- 3) 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. (15 U.S.C. § 6851.)
- 4) Provides that the civil action in 3) 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. (Civil (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) Provides that there is no cause of action under 2) if the person distributed the material under specified circumstances, including that the distributed material was made with the consent of the person portrayed and was intended for public consumption, or the distributed material constitutes a matter of public concern. (Civ. Code, § 1708.85(c).)
- 4) Provides that a depicted individual, as defined, has a cause of action against a person who knowingly creates and discloses sexually explicit material without consent of the person depicted, as provided, subject to specified defenses. (Civ. Code, § 1708.86(b).)
- 5) 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 child sexual abuse material (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.)

This bill:

- 1) Defines the following relevant 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) "Operator" means a person who operates a website.

- c) “Pornographic internet website” means a website that permits users to upload, or solicits from users, sexually explicit content for display on the website.
 - d) “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.
 - e) “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.
- 15) Provides that the measure does not apply to sexually explicit content transmitted on an online dating service through a private messaging or direct-communication feature to one or more user-selected recipients, where the sexually explicit content is not made available to the general public, to a publicly viewable feed, or through public search indexing, regardless of whether the operator also offers other features.

Comments

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 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 specifically 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. Sexually explicit content transmitted through nonpublic channels on an online dating site is excluded from the bill. This bill is substantially similar to AB 392 (Dixon, 2025), which was held in the Senate Appropriations Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, the fiscal effect is as follows:

Potentially significant costs to state and local prosecutors to prosecute civil enforcement actions for violations of this bill. (local funds, General Fund)

Potentially significant cost pressure to the courts to adjudicate civil actions. Creating new private causes of action may lead to additional case filings that otherwise would not have commenced and could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026-27 Budget appropriated \$70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

Unknown costs if a penalty of perjury is imposed. Perjury is punishable by 2-3-4 years in jail. The average annual cost to incarcerate one person in county jail is approximately \$80,000. In 2021 Los Angeles County budgeted \$1.3 billion for jail costs with \$90,000 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

SUPPORT: (Verified 8/13/23)

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: (Verified 8/13/26)

CCIA

Technet

One individual

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.

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 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.

ASSEMBLY FLOOR: 72-0, 5/21/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Irwin, Jackson, Johnson, Kalra, Krell, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers,

Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria,
Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Arambula, Chen, Garcia, Hoover, Lackey, Patterson,
Ramos, Celeste Rodriguez

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/14/26 13:17:20

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