

ASSEMBLY THIRD READING
AB 1946 (Wicks and Krell)
As Amended May 18, 2026
Majority vote

SUMMARY

Modifies the enforcement mechanisms for the existing requirement that social media platforms maintain a reporting mechanism through which California users may report child sexual abuse material (CSAM), authorizes public prosecutors to bring civil actions against noncompliant platforms, and modifies definitions, reporting standards, and compliance timelines.

Major Provisions

- 1) Changes and adds definitions to AB 1394, including:
 - a) Replacing "obscene matter" in the definition of CSAM with "an intimate visual depiction involving an identifiable individual who is, or reasonably appears to be, a minor." Defines "intimate visual depiction" as one that depicts specified uncovered body parts of identifiable individuals, transfer of bodily fluids on to the body of identifiable individuals, or identifiable individuals engaging in sexually explicit conduct, as defined in existing Section 2256 of Title 18 of the United States Code.
 - b) "Clear and conspicuous" has the same meaning as provided in existing Business and Professions Code section 17601: larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language.
 - c) "Dark pattern" has the same meaning as provided in existing Civil Code section 1798.140: a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice, as further defined by regulation.
 - d) "Depicted individual" means a person who is depicted, including through the use of digitization or artificial intelligence, as a minor in child sexual abuse material on a social media platform.
 - e) "Digital forgery" means an intimate visual depiction of an identifiable individual created through the use of software, machine learning, artificial intelligence, or any other computer-generated or technological means, including by adapting, modifying, manipulating, 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.
 - f) "Hash" means a unique, fixed-length alphanumeric value generated from the contents of an image.
 - g) "Hash-matching process" means a process by which images and videos of child sexual abuse material can be converted into hashes and used to identify known child sexual abuse material.

- h) "Identifiable individual" means an individual that meets both of the following criteria:
 - i) The individual appears in whole or in part in an intimate visual depiction.
 - ii) The individual's face, likeness, or other distinguishing characteristic, including a unique birthmark or other recognizable feature, is displayed in connection with that intimate visual depiction.
- 2) Requires CSAM reporting mechanisms on social media platforms to be clear and conspicuous, refrain from dark patterns, and apply to material sent or received through direct messaging systems.
- 3) Expands the scope of users who may report CSAM to a social media platform by no longer limiting such users to identifiable minors, thereby enabling any user to submit such reports.
- 4) Requires platforms to ensure CSAM reports are reviewed by a natural person if the material does not match a hash value for known CSAM and will not otherwise be blocked.
- 5) Removes the requirement that the method by which a social media platform must contact a reporting user not be within the platform's control.
- 6) Shortens the timelines for blocking CSAM and providing written communications to the reporting user to 48 hours, unless extenuating circumstances apply, in which case the timeframe is extended to five days.
- 7) Subjects a social media company to a civil action brought by a public prosecutor for a civil penalty not to exceed \$250,000 for each day that the reporting mechanism is unavailable or nonfunctional. Prevailing public prosecutors may also receive reasonable attorney's fees and costs.
- 8) Provides an exemption from liability for an unavailable or nonfunctional reporting mechanism, as specified, if the social media company demonstrates, by clear and convincing evidence, that the unavailability or non-functionality was caused solely by circumstances beyond the social media company's reasonable control, as specified. Specifies that penalties accrue daily and enable public prosecutors to seek injunctive relief as necessary to prevent ongoing violations.
- 9) Requires that any penalty collected by the Attorney General, less reasonable attorney's fees and costs, be deposited into the Survivor Support Fund established pursuant to Section 647.5 of the Penal Code.
- 10) Limits private standing to sue social media companies for failure to properly implement the CSAM reporting mechanism to depicted individuals who are reporting users, rather than reporting users generally. Enables depicted individuals who are not reporting users to obtain relief, through an action filed by a parent, legal guardian, or other authorized representative, for a platform's failure to block the material depicting the individual.
- 11) Provides that biannual audits must be submitted to the AG, and if requested, to a local public prosecutor.

COMMENTS

Background. Child sexual abuse material, commonly referred to under the acronym "CSAM," is tragically pervasive on the internet. Roughly 500 CSAM files are traded online every minute.¹ From 2013 to 2023, the number of CyberTipline reports received by the National Center for Missing & Exploited Children (NCMEC), a federally-chartered nonprofit, skyrocketed from 500,000 to over 36 million.² The scourge of CSAM exists not only in the illicit corners of the internet, on the so-called "dark web," but also on popular social media websites and applications that billions of people use every day. However, reports dropped 19% in 2024, a decline almost entirely attributable to Meta – the Facebook, Instagram, and WhatsApp parent company that submits roughly two-thirds of the reports – as a result of the company's adoption of end-to-end encryption on Facebook and Messenger, a practice that increases security and privacy but also can allow sex traffickers to operate undetected.³ According to NCMEC, "[t]his decline is especially concerning because the REPORT Act, which was enacted in 2024, mandates companies report two additional forms of child sexual exploitation for the first time – child sex trafficking and online enticement."⁴

Compounding the tragic prevalence of CSAM online, many of these websites and applications are not only a convenient means for sharing CSAM but also provide features that facilitate its production. For example, "[a] *Forbes* review of hundreds of recent TikTok livestreams reveals how viewers regularly use the comments to urge young girls to perform acts that appear to toe the line of child pornography—rewarding those who oblige with TikTok gifts, which can be redeemed for money, or off-platform payments to Venmo, PayPal or Cash App accounts that users list in their TikTok profiles."⁵ In other cases, platforms are culpably inattentive, such as Meta's alleged former policy of allowing 17 strikes before it suspended accounts engaged in sex-trafficking.⁶

Under federal law, online electronic service providers (ESPs) in the United States must report to the CyberTipline operated by NCMEC if they become aware of apparent CSAM on their platform. Using the geolocation provided by the ESPs, NCMEC reviews and refers the reports to

¹ Jessica McGarvie, "From Hashtag to Hash Value: Using the Hash Value Model to Report Child Sex Abuse Material," 13 *Seattle Journal of Environmental Law* (2023) 1, 1.

² 2023 CyberTipline Report, <https://www.missingkids.org/gethelpnow/cybertipline/cybertiplinedata>.

³ Ben Goggin, "Child exploitation watchdog says Meta encryption led to sharp decrease in tips and reports" *NBC News* (May 8, 2025), <https://www.nbcnews.com/tech/security/child-exploitation-watchdog-says-meta-encryption-led-sharp-decrease-ti-rcna205548>. The reduced figure accounts for Meta's new practice of "bundling" related reports.

⁴ 2024 CyberTipline Report, <https://ncmec.org/gethelpnow/cybertipline/cybertiplinedata>.

⁵ Levine, "How TikTok Live Became 'A Strip Club Filled With 15-Year-Olds,'" *Forbes* (Apr. 27, 2022), <https://www.forbes.com/sites/alexandravine/2022/04/27/how-tiktok-live-became-a-strip-club-filled-with-15-year-olds/>. For more examples, see e.g. Asia Grace, "'So f-ked up': Instagram slammed for allowing paid content featuring kids in bikinis," *New York Post* (Nov. 2, 2022), <https://nypost.com/2022/11/02/instagram-slammed-for-paid-content-featuring-kids-in-bikinis/>; Jeff Horwitz and Katherine Blunt, "Instagram Connects Vast Pedophile Network," *The Wall Street Journal* (Jun. 7, 2023), <https://www.wsj.com/articles/instagram-vast-pedophile-network-4ab7189>; Jennifer Valentino-DeVries and Michael H. Keller, "She Was a Child Instagram Influencer. Her Fans Were Grown Men," *The New York Times* (Nov. 10, 2024), <https://www.nytimes.com/2024/11/10/us/child-influencer.html>.

⁶ Jonathan Limehouse, "Meta had 17-strikes policy for sex trafficking posts, lawsuit alleges," *USA Today* (Nov. 22, 2025), <https://www.usatoday.com/story/tech/2025/11/22/meta-strike-policy-sex-trafficking-violations-testimony/87425612007/>.

relevant law enforcement agencies.⁷ ESPs may, but are not required to, use NCMEC's Take It Down tool, which is funded by Meta. The tool "works by assigning a unique digital fingerprint, called a hash value, to nude, partially nude, or sexually explicit images or videos of people under the age of 18. Online platforms can use hash values to detect these images or videos on their services and remove this content."⁸ Once a hash is generated, social media platforms can use it to not only remove existing copies of the CSAM, but also rapidly compare image and video files that users attempt to upload for a match, analogous to the process that they use to scan incoming files for computer viruses.

Artificial intelligence can exacerbate and mitigate the proliferation of CSAM. As numerous state Attorneys General – California's Rob Bonta included – have recently written, the urgency and ubiquity of these problems are increasing due to the widespread availability of generative Artificial Intelligence (AI), which can be used to create sexual deepfakes.⁹ NCMEC's CyberTipline saw a 1,325% increase in reports involving Generative AI, going from 4,700 in 2023 to 67,000 reports in 2024.¹⁰ On the other hand, some platforms, such as Google and Meta, are using machine learning algorithms to identify potentially harmful content more efficiently.¹¹

AB 1394 (Wicks). To ensure social media platform accountability when users report CSAM, AB 1394 (Wicks, Flora; Stats. 2023, Ch. 579), which became operative January 1, 2025, requires platforms to establish a mechanism for underage users to report suspected CSAM they are depicted in and requires the platforms to permanently block CSAM and update the user who reported the violation throughout the process, which generally must be completed within 30 days of the report. Platforms that violate these provisions are subject to civil liability, including actual damages to the reporting user and statutory damages of up to \$250,000 per violation.

AB 1394 also prohibits social media platforms from knowingly facilitating, aiding, or abetting commercial sexual exploitation of minors. "Facilitate, aid, or abet" means to deploy a system, design, feature, or affordance that is a substantial factor in causing minor users to be victims of commercial sexual exploitation. Each violation subjects the platform to statutory damages of up to \$4,000,000 but no less than \$1,000,000. The bill delineates circumstances in which a platform is deemed to have knowledge and provides a safe harbor from this liability where the platform has undertaken biannual audits and corrected its designs, algorithms, practices, affordances, and features that pose a risk of a violation, as specified.

According to the Author

Although AB 1394 created a framework and mechanism to combat the proliferation of CSAM, there are gaps within the existing law that still allow CSAM to spread on social media platforms. AB 1946 would fill in some of these gaps and expand the mechanism so that the process to report CSAM and the law is clear and functional.

⁷ Paul Bischoff, "The rising tide of child abuse content on social media," *Comparitech* (Jul. 9, 2024) <https://www.comparitech.com/blog/vpn-privacy/child-abuse-online-statistics/>.

⁸ NCMEC: Take It Down, available at <https://takeitdown.ncmec.org/>.

⁹ "Artificial Intelligence and the Exploitation of Children," National Association of Attorneys General (Sept. 5, 2023), <https://ncdoj.gov/wp-content/uploads/2023/09/54-State-AGs-Urge-Study-of-AI-and-Harmful-Impacts-on-Children.pdf>.

¹⁰ 2024 CyberTipline Report, <https://ncmec.org/gethelpnow/cybertypline/cybertyplinedata>.

¹¹ Paul Bischoff, "The rising tide of child abuse content on social media" *Comparitech* (Jul. 9, 2024) <https://www.comparitech.com/blog/vpn-privacy/child-abuse-online-statistics/>.

Arguments in Support

The bill's sponsor, the Children's Advocacy Institute of the University of San Diego School of Law, writes:

We should not need to pass laws to compel platforms to do any of this. Any business behaving with even a molecule of morality would not evade their obligations to aid suffering, sexually abused children.

And yet, here we are – again. That we must resort to bills like this one tells you everything you need to know about why AB 1946 is necessary to protect our most horribly exploited children from just a handful of unimaginably wealthy corporations that could do far more to help them, but don't.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Appropriations Committee:

- 1) Possible costs (General Fund, special funds) to the Department of Justice (DOJ) of an unknown amount. Costs include workload costs for receiving and reviewing submitted audits, responding to local prosecutor requests for audit material, and, if the Attorney General exercises the authority granted by the bill, conducting rulemaking to define "clear and conspicuous." Additional costs will depend on whether the Attorney General pursues enforcement actions, and, if so, the level of additional staffing DOJ needs to handle the related workload. If DOJ hires staff to handle enforcement actions authorized by this bill, the department would incur significant costs, likely in the low hundreds of thousands of dollars annually at a minimum. If DOJ does not pursue enforcement as authorized by this bill, the department would likely not incur any costs. A portion of DOJ enforcement costs may be offset by reasonable attorney's fees and costs recovered in successful actions.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate civil enforcement actions authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.

VOTES**ASM PRIVACY AND CONSUMER PROTECTION: 14-1-0**

YES: Bauer-Kahan, Macedo, Aguiar-Curry, Bryan, Hoover, Irwin, Lowenthal, McKinnor, Ortega, Patterson, Petrie-Norris, Ward, Wicks, Wilson

NO: DeMaio

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

UPDATED

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