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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### AB 392 (Dixon) - Pornographic internet websites: consent

**Version:** July 10, 2025

**Urgency:** No

**Hearing Date:** August 18, 2025

**Policy Vote:** JUD. 13 - 0

**Mandate:** Yes

**Consultant:** Liah Burnley

**Bill Summary:** AB 392 requires, before uploading sexually explicit content to a pornographic website, a person to submit a statement certifying that any individual depicted in the content was not a minor, consented to being depicted, and consents to the content being uploaded to the website.

#### Fiscal Impact:

- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate civil actions. Creating a new cause of action that allows for the recovery of attorney's fees and statutory damages, may lead to additional case filings that otherwise would not have been commenced. Expanding civil penalties could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill 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. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. 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 and to increase the amount appropriated to backfill for trial court operations.
- Unknown, potentially significant costs (General Fund, local funds, special funds) to state and local prosecutors to prosecute civil enforcement actions for violations of this bill.

**Background:** Proliferation of nonconsensual pornography and deepfake pornography has increased dramatically because digital technology makes it much easier to create and share these images than could be done with previous technology. As described in more detail in the policy committee analyses of this bill, California has enacted multiple laws in recent years to hold accountable people who create and distribute deepfake pornography or nonconsensual pornography and discourage its proliferation. Currently, a person who creates or distributes these sexual images may be subject to criminal penalties and may be sued in civil court by the person depicted in the images.

#### Proposed Law:

- Requires website operators to exercise ordinary care and reasonable diligence to ensure that each instance of sexually explicit content displayed on their website does not include a depicted individual, as defined.

- Requires, before uploading sexually explicit content to a pornographic website, a user to submit both of the following to the operator of the website:
  - Information sufficient to enable the operator to contact the user, including, at a minimum, an email address; and,
  - A statement certifying, not under penalty of perjury, that each individual depicted in the sexually explicit content meets all of the following criteria:
    - The individual was not a minor at the time the sexually explicit content was created;
    - The individual consents to the sexually explicit content being uploaded to the internet on the pornographic internet website; and,
    - The individual consented to being depicted in the sexually explicit content.
- Provides that an operator of a website who does not obtain the statement described above shall be presumed to have violated Section 22606. The presumption may be rebutted if the operator establishes, by a preponderance of the evidence, that they took other steps to verify that material uploaded to, and displayed on, the website satisfied the criteria and was consistent with its duty of care.
- Makes knowingly providing false information in the statement an infraction punishable by a \$1,000 fine.
- Requires an operator to retain the statement and information in a readily available format for at least seven years after the statement and information are submitted.
- Requires an operator to verify a user's email address before permitting the user to upload sexually explicit content to the website.
- Allows an operator to require a user to submit the information through a specific mechanism or medium.
- Provides that a depicted individual who suffers harm as a result of sexually explicit content depicting the individual being displayed on a pornographic website may bring a civil action against the operator if the operator allowed that content to be uploaded to, or displayed on, its website and a civil action against the user for uploading sexually explicit content that the user knew, or should have known, included a depicted individual.
- Provides that a depicted individual who prevails in a civil action may obtain all of the following relief:
  - Actual damages or statutory damages in an amount not greater than \$75,000 per violation, whichever amount is greater;
  - Punitive damages;

- Reasonable attorney's fees and costs; and,
  - Any other available relief, including injunctive relief.
- Provides that a public prosecutor may bring a civil enforcement action to obtain all of the following relief:
  - A civil penalty of \$25,000 per violation;
  - Injunctive and other equitable relief;
  - Reasonable attorney's fees and costs; and,
  - Any other relief the court deems appropriate.
- States that each full calendar day that sexually explicit content uploaded or displayed in violation of this chapter remains accessible on the website constitutes a separate violation.
- Defines "Depicted individual" as 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:
  - The individual did not consent to being depicted in the sexually explicit content;
  - The individual was a minor at the time the sexually explicit content was created; or,
  - When the sexually explicit content was uploaded to the pornographic internet website, the individual did not consent to that uploading.
- Defines "Pornographic internet website" 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.
- Defines "Sexually explicit content" as any portion of a visual or audiovisual work, including imagery created or substantially altered through digitization, that shows a depicted individual or individuals in the nude or engaging in sexual conduct. "Sexually explicit content" does not mean content that, taken as a whole, has serious literary, artistic political, or scientific value.
- Defines "User" as a person or entity that uploads or otherwise provides sexually explicit content to a pornographic internet website.

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