

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 621 (Bauer-Kahan)
Version: July 3, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

Deepfake pornography

DIGEST

This bill fortifies existing law providing a cause of action to persons depicted in nonconsensual, sexually explicit, digitized material.

EXECUTIVE SUMMARY

With the technological advances in digital editing capabilities, the use of such tools to alter audiovisual work to portray individuals in various states of undress and/or engaging in sexually explicit conduct in which they are not actually performing has become an increasingly widespread issue. California passed AB 602 (Berman, Ch. 491, Stats. 2019) in response. That law provides a cause of action against a person who creates and intentionally discloses sexually explicit, nonconsensual deepfakes, as specified, and those who intentionally disclose them knowing they are nonconsensual.

However, the rapid growth of generative AI (GenAI) capabilities has intensified the incidence and impact of nonconsensual, sexual deepfakes. “Nudification” applications and websites have made the ability to create these deepfakes even more accessible. This bill updates existing law to combat this troubling new trend and provides stronger enforcement mechanisms to incentivize compliance. It expands the cause of action to include material depicting minors and extends liability to those knowingly facilitating or recklessly aiding or abetting the actionable conduct. The bill also takes aim at “deepfake pornography services” whose primary purpose is to create these sexually explicit deepfakes.

The bill is sponsored by San Francisco City Attorney David Chiu. It is supported by a variety of organizations, including the American Association of University Women of California and the California Police Chiefs Association. It is opposed by Technet.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that a depicted individual has 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.
 - 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).)
- 2) Defines the relevant terms, including:
 - a) “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.
 - 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.
 - c) “Altered depiction” means a performance that was actually performed by the depicted individual but was subsequently altered to be in violation of this statute.
 - d) “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.
 - e) “Malice” means that the defendant acted with intent to cause harm to the plaintiff or despicable conduct that was done with a willful and knowing disregard of the rights of the plaintiff. A person acts with knowing disregard within the meaning of this paragraph when they are aware of the probable harmful consequences of their conduct and deliberately fail to avoid those consequences. (Civ. Code § 1708.86(a).)
- 3) Provides clear guidelines for when consent can be rescinded. (Civ. Code § 1708.86(a)(3)(B).)
- 4) Authorizes the following remedies for prevailing plaintiffs in the above actions:
 - a) An amount equal to the monetary gain made by the defendant from the creation, development, or disclosure of the sexually explicit material.
 - b) Economic and noneconomic damages proximately caused by the disclosure of the sexually explicit material, including damages for emotional distress or the plaintiff may, at any time before the final judgment is rendered,

recover instead an award of statutory damages for all unauthorized acts involved in the action, with respect to any one work, as follows:

- i. A sum of not less than \$1,500 but not more than \$30,000.
 - ii. If the act was committed with malice, the award of statutory damages may be increased to a maximum of \$150,000.
 - c) Punitive damages.
 - d) Reasonable attorney's fees and costs.
 - e) Any other available relief, including injunctive relief. (Civ. Code § 1708.86(e).)
- 5) Establishes a statute of limitations of three years from the date the plaintiff discovered, or should have discovered, the unauthorized creation, development, or disclosure. (Civ. Code § 1708.86(f).)
- 6) Provides that a person is not liable for the above conduct in the following circumstances:
- a) The person discloses the sexually explicit material in the course of any of the following:
 - i. Reporting unlawful activity.
 - ii. Exercising the person's law enforcement duties.
 - iii. Hearings, trials, or other legal proceedings.
 - b) The material is any of the following:
 - i. A matter of legitimate public concern.
 - ii. A work of political or newsworthy value or similar work.
 - iii. Commentary, criticism, or disclosure that is otherwise protected by the California Constitution or the United States Constitution. (Civ. Code § 1708.86(c).)
- 7) 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, as defined, or shows the other person engaged in specified sexual acts, without that person's consent, knowing that the other person had a reasonable expectation that the material would remain private, if specified conditions are met. (Civ. Code § 1708.85(a)-(c).)

This bill:

- 1) Updates and expands the cause of action for depicted individuals to provide a cause of action against a person doing any the following:
 - a) Creates and intentionally discloses digitized sexually explicit material portraying the depicted individual, and the person knows, or reasonably should know, that the depicted individual in that material did not consent to its creation or disclosure or was a minor when the material was created.

- b) Intentionally discloses digitized sexually explicit material portraying the depicted individual that the person did not create, and the person knows, or reasonably should know, that the depicted individual in that material did not consent to the creation of the digitized sexually explicit material or was a minor when the material was created.
 - c) Knowingly facilitates or recklessly aids or abets conduct prohibited above.
- 2) Provides that for purposes of this statute, both of the following apply:
 - a) A person that owns, operates, or controls a deepfake pornography service is engaged in the creation and intentional disclosure of digitized sexually explicit material and shall be presumed to have known that the depicted individual did not consent to the creation or disclosure of the digitized sexually explicit material, unless the person produces evidence of the depicted individual's express written consent.
 - b) A person that provides a service that enables the ongoing operation of a deepfake pornography service shall be presumed to be in violation of 2)c) above if both of the following are true:
 - i. A depicted individual or public prosecutor provides the person with evidence sufficient to demonstrate that the person is providing services that enable the ongoing operation of a deepfake pornography service that engages in conduct violating this statute. Such evidence may be submitted through a customer service email.
 - ii. The person fails to take all necessary steps to stop providing services that enable the ongoing operation of a deepfake pornography service within 30 days of receiving this evidence. This timeline may be extended by a court if it finds it is necessary to conduct an ongoing law enforcement investigation or operation.
- 3) Provides that it shall not be a defense to an action hereunder that a deepfake pornography service has a disclaimer or statement that states that users are prohibited from generating digitized sexually explicit material of a depicted individual without the individual's consent.
- 4) Updates or adds the relevant definitions, including:
 - a) "Deepfake pornography service" means a website, mobile application, or other service the primary purpose of which is to create digitized sexually explicit material.
 - b) "Depicted individual" means an individual who is portrayed in sexually explicit material.
 - c) "Digitized sexually explicit material" means any portion of a visual or audiovisual work created or substantially altered through digitization, including an image, that shows the depicted individual in the nude or appearing to engage in, or being subjected to, sexual conduct.

- 5) Enhances the statutory penalties available to a depicted individual to a maximum of \$50,000 and for acts committed with malice a maximum of \$250,000.
- 6) Explicitly includes a cause of action for public prosecutors for violations hereof, regardless of whether a depicted individual suffered actual harm, and makes the following remedies available:
 - a) Injunctive and other equitable relief.
 - b) A civil penalty of \$25,000 per violation.
 - c) For a violation committed with malice, a civil penalty of \$50,000 per violation.
 - d) Reasonable attorney's fees.
 - e) Any other relief the court deems appropriate.
- 7) Clarifies that it does not apply to conduct that is federally protected.
- 8) Finds and declares that the clarification that this statute applies to deepfake pornography services is declaratory of existing law.

COMMENTS

1. The rise of sexually explicit deepfakes

There are various manifestations of deepfakes, but essentially all involve the digital manipulation of audiovisual material to falsely depict an individual engaging in certain conduct. One privacy expert describes the problem relevant here: "Although political deepfakes are relatively new, pornographic deepfakes have been a problem for some time. These often purport to show a famous actress or model involved in a sex act but actually show the subject's face superimposed onto another woman's body."¹

With the rapid advancement in GenAI, deepfake images have become exponentially easier to produce, exacerbating the problem:

Recent improvements in artificial intelligence software have made it surprisingly easy to graft the heads of stars, and ordinary women, to the bodies of X-rated actresses to create realistic videos.

These explicit movies are just one strain of so-called "deepfakes," which are clips that have been doctored so well they look real. Their arrival poses a threat to democracy; mischief makers can, and already have, used them to spread fake news.

¹ Nicholas Schmidt, *Privacy law and resolving 'deepfakes' online* (Jan. 30, 2019) IAPP, <https://iapp.org/news/a/privacy-law-and-resolving-deepfakes-online/>. All further internet citations are available as of June 29, 2025.

But another great danger of deepfakes is their use as a tool to harass and humiliate women.²

A recent study analyzed the rise of so called “AI nudification” applications:

Computer vision and generative AI techniques can undress someone depicted in a picture or video. Such technology is increasingly publicly accessible, leading to a proliferation of “nudification” applications available to end-users online.

Nudification applications enable end-users without technical or even Photoshop skills to artificially generate intimate imagery of someone without their consent. We refer to such a resulting image as a synthetic non-consensual explicit AI-created imagery, or SNEACI. Non-consensual imagery created through the use of AI has a starkly different paradigm compared to that of images created through Photoshop or technical skills. AI makes the creation of these images easier, faster, and more realistic because of how advanced generative AI has become. Similar to malware-as-a-service, synthetic non-consensual explicit AI-created imagery brings non-experts the ability to harm at scale. The creation of SNEACI is a form of sexual abuse against the subject who, by definition, is non-consensually depicted in the resulting content. In addition to the serious mental health impacts victim-survivors sustain from the violation of being depicted in SNEACI, SNEACI may be used by the creator to extort and/or otherwise harass the subject of the image. As such, there is increasing concern amongst policymakers and new legislation about SNEACI and the applications that facilitate its creation.³

Earlier this month, an investigation revealed that hundreds of ads were available across Meta’s social media platforms, including Facebook and Instagram, that promoted nudify apps that “advertised the ability to ‘upload a photo’ and ‘see anyone naked’” and “promoted the ability to upload and manipulate videos of real people.”⁴

² Jeff John Roberts, *Fake Porn Videos Are Terrorizing Women. Do We Need a Law to Stop Them?* (Jan. 15, 2019) Fortune, <http://fortune.com/2019/01/15/deepfakes-law/>.

³ Cassidy Gibson, et al., *Analyzing the AI Nudification Application Ecosystem* (November 18, 2024) Tech Policy Lab, <https://techpolicylab.uw.edu/wp-content/uploads/2024/11/Analyzing-the-AI-Nudification-Application-Ecosystem.pdf>.

⁴ Emmet Lyons and Leigh Kiniry, *Meta's platforms showed hundreds of "nudify" deepfake ads, CBS News investigation finds* (June 6, 2025) CBS News, <https://www.cbsnews.com/news/meta-instagram-facebook-ads-nudify-deepfake-ai-tools-cbs-news-investigation/>.

Infamously, last year, Taylor Swift was the victim of sexually explicit, nonconsensual deepfake images using GenAI that were widely spread across social media platforms.⁵ Perhaps more disturbingly, a trend has emerged in schools of students creating such images: “At schools across the country, people have used deepfake technology combined with real images of female students to create fraudulent images of nude bodies. The deepfake images can be produced using a cellphone.”⁶

2. Combating sexually explicit deepfakes

Responding to the growing concerns associated with sexual deepfakes, AB 602 created a cause of action for “depicted individuals,” those who are made to falsely appear as a result of digitization to be performing in sexually explicit material they did not actually perform and who did not consent to the creation or disclosure of.

However, with the rapid rise of GenAI and the accessibility of these nudification applications and websites, the author and sponsors argue that the AB 602 statute needs to be updated and fortified.

This bill expands the basis for a depicted individual’s cause of action. First, it expands liability to those that intentionally disclose the material if they reasonably should have known that the depicted individual did not consent or was a minor. The cause of action for those creating and intentionally disclosing the material also includes where they should have known the depicted individual was a minor.

The bill reforms some of the definitions of the bill, focusing on “digitized sexually explicit material,” meaning any portion of a visual or audiovisual work created or substantially altered through digitization, including an image, that shows the depicted individual in the nude or appearing to engage in, or being subjected to, sexual conduct.

Next, the bill expands liability to those that knowingly facilitate or recklessly aid or abet violations.

Given the described rise of sites dedicated to creating these deepfakes, the bill introduces the term “deepfake pornography service” to mean a website, mobile application, or other service the primary purpose of which is to create digitized sexually explicit material. The bill establishes a presumption against a person that owns, operates, or controls such a service. It provides that such a person is deemed to be engaged in the creation and intentional disclosure of digitized sexually explicit material

⁵ Brian Contreras, *Tougher AI Policies Could Protect Taylor Swift – And Everyone Else – From Deepfakes* (February 8, 2024) Scientific American, <https://www.scientificamerican.com/article/tougher-ai-policies-could-protect-taylor-swift-and-everyone-else-from-deepfakes/>.

⁶ Hannah Fry, Laguna Beach High School investigates ‘inappropriate’ AI-generated images of students (April 2, 2024) Los Angeles Times, <https://www.latimes.com/california/story/2024-04-02/laguna-beach-high-school-investigating-creation-of-ai-generated-images-of-students>.

and is presumed to have known that the depicted individual did not consent to the creation or disclosure of the digitized sexually explicit material, unless the person produces evidence of the depicted individual's express written consent.

Additionally, a person that provides a service that enables the ongoing operation of a deepfake pornography service is presumed to be in violation of the new facilitation cause of action if, after a depicted individual or public prosecutor provides the person with evidence sufficient to demonstrate that the person is providing services that enable the ongoing operation of a deepfake pornography service that engages in violations, the person fails to take all necessary steps to stop providing such services within 30 days, as provided.

The bill specifically provides that it shall not be a defense to an action that a deepfake pornography service has a disclaimer or statement that states that users are prohibited from generating digitized sexually explicit material of a depicted individual without the individual's consent.

To provide a bigger hammer against those engaging in violations, the bill increases the statutory penalties available to depicted individuals and provides a fortified right of action for public prosecutors to seek civil penalties and other remedies regardless of whether a depicted individual suffers actual harm.

According to the author:

AB 621 strengthens civil enforcement mechanisms against nudify websites that use artificial intelligence to create fake nude images of real people. These sites are most often used on photos without the consent of the individuals in them and have a detrimental impact on the victims, taking away both their autonomy and their privacy. In one recent instance, five students were expelled from a Beverly Hills Middle School after creating and sharing AI generated nude photos of their classmates. The accountability laws regarding such sites must be updated to close gaps and ensure that all those who facilitate and platform these sites are held responsible. AB 621 makes important progress towards protecting the privacy and safety of women and girls online.

3. Stakeholder positions

San Francisco City Attorney David Chiu, the sponsor of the bill, writes:

The widespread availability of "nudify" websites and apps enable the use of a person's likeness to create highly-realistic pornographic imagery and videos. With the single click of a button, these deepfakes go viral, with devastating impacts for the victims.

These images are used to extort, bully, threaten, and humiliate victims. The Federal Bureau of Investigation has also warned of an uptick in extortion schemes using nonconsensual AI-generated pornography. Worse yet, victims of nonconsensual deepfake pornography have found virtually no recourse or ability to control their own image after deepfake images have been distributed.

In August 2024, my office announced a first-of-its-kind lawsuit against some of the world's largest websites that create and distribute nonconsensual AI-generated pornography. Our lawsuit alleges violations of state and federal laws prohibiting deepfake pornography, revenge pornography, and child pornography, as well as violations of California's Unfair Competition Law. My office pursues public interest cases under California's Unfair Competition Law to protect consumers and ensure fair competition among businesses. We have successfully litigated a range of consumer protection cases targeting unlawful and deceptive practices across a variety of industries.

Even though existing law prohibits the creation and distribution of nonconsensual AI-generated pornography, and public prosecutors have broad enforcement powers that enable them to sue operators of websites that create such imagery, there are significant enforcement gaps within existing law. Crucially, it does not apply to entities that facilitate the operation of such websites, allowing enablers of bad actors to profit off deepfake pornography with impunity. Additionally, the civil penalties public prosecutors can recover through their general enforcement powers are relatively small, limiting the deterrent effect of these laws.

AB 621 augments the existing statute that provides civil liability for the intentional creation and distribution of deepfake pornography by expressly applying it to deepfake pornography websites, expanding it to apply to those who knowingly or recklessly facilitate the operation of such websites or the creation or distribution of such images, expressly giving standing to public prosecutors to take enforcement actions under the statute, and increasing the amount of damages and penalties that violators may face.

TechNet writes in opposition:

We greatly appreciate you, your staff, and your sponsors' willingness to engage in these conversations over the intervening months and work towards a solution. These conversations resulted in important improvements to the bill, including language confirming that AB 621 applies only to ongoing services — not to companies that no longer have a

contractual relationship to terminate – and clarification regarding what constitutes sufficient notice when an individual or public prosecutor informs a company that it is providing services to a deepfake pornography site in violation of the Act.

However, despite these important changes, we remain opposed to the bill’s core enforcement mechanism. As drafted, AB 621 permits a depicted individual or a public prosecutor to bring a civil action against any company that provides an ongoing “service that enables the operation of a deepfake pornography service,” if the company is notified and fails to cease service within 30 days.

Writing in support, the California Police Chiefs Association argues:

The proliferation of deepfake technology has led to a disturbing rise in digitally manipulated sexually explicit content, often used to harass, exploit, and defame individuals – particularly women and minors. While existing laws provide victims with a cause of action against those who create or distribute such material, AB 621 strengthens these protections by extending liability to those who knowingly facilitate, aid, or abet the distribution of deepfake pornography. The bill also increases statutory damages for victims and provides a mechanism for public prosecutors to pursue civil enforcement actions. By holding both creators and enablers of this abusive content accountable, AB 621 closes critical loopholes in current law and ensures that victims have meaningful legal recourse. Furthermore, by allowing for public enforcement actions, the bill empowers law enforcement agencies to take proactive steps against bad actors operating deepfake pornography services.

SUPPORT

San Francisco City Attorney David Chiu (sponsor)
American Association of University Women - California
California Catholic Conference
California Police Chiefs Association
Civil Prosecutors Coalition
Joyful Heart Foundation

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

AB 392 (Dixon, 2025) requires the operator of a pornographic internet website, as defined, to obtain from its users a verification that sexually explicit material the user is uploading to the site does not include a depiction of a person who was a minor at the time the material was created, a person who did not consent to be in the material, or who did not consent to have the material uploaded, and establishes a rebuttable presumption that the failure to do so violates the operator's duty of care, as specified. AB 392 is currently in the Senate Public Safety Committee.

AB 853 (Wicks, 2025) establishes requirements on large online platforms, capture device manufacturers, and GenAI system hosting platforms to embed and disclose provenance data in content generated or altered by GenAI systems, as provided. AB 853 is currently in this Committee and is set to be heard the same day as this bill.

Prior Legislation:

SB 981 (Wahab, Ch. 292, Stats. 2024) required social media platforms to provide a mechanism for reporting "sexually explicit digital identity theft," essentially the posting of nonconsensual, sexual deepfakes; and requires platforms to timely respond and investigate and to remove instances of this material, as provided.

AB 1394 (Wick, Ch. 579, Stats. 2023) required social media platforms to provide a reporting mechanism for suspected child sexual abuse material and requires them to permanently block the material, as provided. It also prohibited platforms from knowingly facilitating, aiding, or abetting minor's commercial sexual exploitation.

AB 602 (Berman, Ch. 491, Stats. 2019) *See* Executive Summary and Comment 2.

PRIOR VOTES:

Assembly Floor (Ayes 78, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 15, Noes 0)
