
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 853 (Wicks) - California AI Transparency Act

Version: July 17, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: JUD. 11 - 0

Mandate: No

Consultant: Liah Burnley

Bill Summary: AB 853 would prohibit a GenAI hosting platform from making a GenAI system available that does not place disclosures that are permanent or extraordinarily difficult to remove into content created or substantially modified by the GenAI system. AB 853 would also prohibit a provider or a distributor of software or online services from making available a system, application, tool, or service that is designed for the primary purpose of removing the latent disclosures.

Fiscal Impact:

- The Department of Justice (DOJ) reports a fiscal impact of approximately \$1 million or less (Unfair Competition Law Fund). DOJ notes that implementation of this bill will be dependent upon the appropriation of funds. The DOJ will be unable to absorb the costs to comply with or implement the requirements of the bill within existing budgeted resources. DOJ reports that the Consumer Protection Section (CPS) within the Public Rights Division anticipates increased workloads in investigating and enforcing violations of this bill, beginning on January 1, 2026, and ongoing. CPS will require additional resources consisting of two Deputy Attorneys General (DAGs), one Associate Governmental Program Analyst (AGPA), and one Legal Secretary.
- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate civil actions. By expanding a civil penalty with statutory damages, this bill 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. 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.

Background: Although images have long been manipulated or faked, the proliferation of generative AI (GenAI) systems that can generate and modify images and videos has dramatically increased the amount of convincing but ultimately fake content circulating in the public domain. This technology has facilitated the creation and spread of nonconsensual pornography, scams targeting individuals and corporations, and political propaganda and misinformation. Media consumers often cannot tell the difference

between real and synthetic content, and cannot determine the provenance of GenAI content.

Last year, the Legislature enacted SB 942 (Becker), Chapter 291, Statutes of 2024, the California AI Transparency Act. Among other provisions, the law requires the provider of a covered GenAI system to include latent provenance disclosure in original content produced by the system, and requires such a provider to make tools available that can identify GenAI content produced by its system. Failure to fulfill the law's requirements is subject to civil enforcement by the Attorney General, a city attorney, or county counsel. The law will become operative in January 1, 2026.

While the existing law focuses on the makers of GenAI systems, this bill expands the law to include requirements for large online platforms that distribute content and for the makers of content capture devices – like digital cameras and smartphones.

Proposed Law:

- Defines the following:
 - “Capture device” as a device that can record photographs, audio, or video content, including, but not limited to, video and still photography cameras, mobile phones with built-in cameras or microphones, and voice recorders;
 - “Capture device manufacturer” as a person who produces a capture device for sale in the state;
 - “Digital signature” as a cryptography-based method that identifies the user or entity that attests to the information provided in the signed section;
 - “GenAI hosting platform” as an internet website that makes a generative artificial intelligence system available for use by a resident of the state, regardless of whether the terms of that use include compensation;
 - “Large online platform” as a public-facing social media platform, content-sharing platform, messaging platform, advertising network, stand-alone search engine, or web browser that distributes content to users who did not create or collaborate in creating the content that exceeded 2,000,000 unique monthly users during the preceding 12 months; and,
 - “Personal provenance data” does not include information contained within a digital signature.
- Requires a large online platform to do both of the following:
 - Use a label to disclose any machine-readable provenance data detected in content distributed on the large online platform that meets all of the following criteria:
 - The label indicates whether provenance data is available;

- The label indicates the name and version number of the GenAI system that created or altered the content, if applicable;
 - The label indicates whether any digital signatures are available; and,
 - The label is presented in a conspicuous manner to users;
- Allow a user to inspect any provenance information in an easily accessible manner.
- Provides that a large online platform shall not do any of the following:
 - Strip any system provenance data or digital signature from content uploaded or distributed on the large online platform; and,
 - Retain any personal provenance data from content shared on the large online platform.
- Provides that a GenAI system hosting platform shall not make available a GenAI system that does not place disclosures that are permanent or extraordinarily difficult to remove into content created or substantially modified by the GenAI system.
- States that a provider or a distributor of software or online services shall not make available a system, application, tool, or service that is designed for the primary purpose of removing latent disclosures.
- Operative on January 1, 2028, requires a capture device manufacturer to, with respect to any capture device the capture device manufacturer produces for sale in the state to provide a user with the option to include a latent disclosure in content captured by the capture device that, to the extent that it is technically feasible and reasonable, conveys all of the following information:
 - The name of the capture device manufacturer;
 - The name and version number of the capture device that created or altered the content; and,
 - The time and date of the content's creation or alteration.
- States that the option shall be available for the capture device's default capture application and third-party applications that bypass default capture applications in order to offer capture functionalities:
 - Embed latent disclosures in content captured by the device by default;
 - Clearly inform users of the existence of settings relating to provenance data upon a user's first use of the recording function on the capture

device;

- When any capture device application is in use, contain a clear indicator when provenance data is applied;
 - Include in the capture device's default capture application the ability for a user to opt out of the inclusion of provenance data based on guidelines or specifications promulgated by an established standard-setting body in the user's captured content; and,
 - Make secure hardware-based provenance data capture available to third-party applications.
- Provides that a violator shall be liable for a civil penalty of \$5,000 per violation to be collected in a civil action filed by the Attorney General, a city attorney, or a county counsel. A prevailing plaintiff in an action brought pursuant to this subdivision shall be entitled to all reasonable attorney's costs and fees.

Related Legislation: This bill is one of a many related to AI this Legislative Session:

- SB 53 (Weiner) establishes a consortium develop a framework for the creation of a public cloud computing cluster to advance the development of AI that is safe, ethical, equitable, and sustainable. SB 53 is pending in the Assembly Appropriations Committee.
- SB 366 (Smallwood Cuevas) creates a study evaluating the impact of AI on worker well-being. SB 366 was held under submission in this Committee.
- SB 503 (Weber Pierson) requires developers of patient care decision support tools and health facilities to make reasonable efforts to identify uses of patient care decision support tools in health programs. SB 503 is pending in the Assembly Appropriations Committee.
- SB 524 (Arreguin) requires law enforcement agencies to note when they use AI on official reports. SB 524 is pending in the Assembly Appropriations Committee.
- SB 579 (Padilla) establishes a mental health and AI working group. SB 579 was held under submission in this Committee.
- SB 833 (McNerney) requires a state agency in charge of critical infrastructure that deploys AI to establish a human oversight mechanism. SB 833 is pending in the Assembly Appropriations Committee.
- AB 222 (Bauer-Kahan) requires reporting about energy use related to AI. AB 222 is pending in this Committee.
- AB 316 (Krell) prohibits a defendant that used AI from asserting a defense that the AI autonomously caused the harm to the plaintiff. AB 316 is pending on this Committee's Suspense File.

- AB 410 (Wilson) requires bots using AI to disclose that they are bots. AB 410 is pending in this Committee.
- AB 412 (Bauer Kahan) requires a of a generative AI model to document any copyrighted materials used to train the model. AB 412 was not heard in the Senate Judiciary committee at the request of the author.
- SB 420 (Padilla) regulates high-risk automated decision systems. SB 420 was not head in the Assembly Committee on Privacy and Consumer Protection.
- SB 468 (Becker) imposes a duty on business that deploy a high-risk AI systems that processes personal information to protect personal information. SB 468 was held under submission in this Committee.
- AB 489 (Bonta) makes provisions of law that prohibit the use of specified terms, letters, or phrases to falsely indicate or imply possession of a license or certificate to practice a health care profession enforceable against an entity who uses AI. AB 489 is pending in this Committee.
- AB 979 (Irwin) develops a California AI Cybersecurity Collaboration Playbook to facilitate information sharing across the AI community. AB 979 is pending in this Committee.
- AB 1018 (Bauer-Kahan) regulates automated decision systems. AB 1018 is pending in this Committee.
- AB 1064 (Bauer-Kahan) adopts criteria for determining the level of estimated risk of an AI system on children. AB 1064 is pending in this Committee.
- AB 1159 (Addis) prohibits using student personal information to train AI. AB 1159 is was not heard at the request of the author in the Assembly Committee on Privacy and Consumer Protection.
- AB 1405 (Bauer-Kahan) establishes a mechanism allowing natural persons to report misconduct by AI auditors. AB 1405 is pending in this Committee.

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