

Date of Hearing: March 25, 2026

Fiscal: Yes

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 1705 (Bauer-Kahan and Dixon) – As Introduced February 4, 2026

**SUBJECT:** Pornographic internet websites

**SYNOPSIS**

*Over the course of 11 days, between December 29, 2025, and January 8, 2026, men and boys around the world used the Artificial Intelligence tool, Grok, to create approximately 3 million fake, sexualized images of women and girls. It is estimated that 23,000 of those images depicted children. Men using sexual abuse images to harass, humiliate, and harm women and girls predates the internet. What is new is the ease with which the images can be created and that the abuse can spread further and faster. Image-based sexual abuse is a very old form of sexual degradation and violation that has taken on new significance with emerging technologies.*

*The online attacks on women and girls are far from harmless. The weaponizing of these images and videos by men and boys can destroy the lives of women and girls. Maintaining a “good” online identity has become essential in contemporary society. Applying for college or a job, online dating, even ordering an Uber or food delivery depend on a person’s ability to create a good online identity.<sup>1</sup> Beyond the damage to their future, women and girls often face deep emotional and psychological harm.*

*This bill, the RECLAIM Act (Removing Exploitative Content Through Legal Accountability for Image Misuse), establishes liability for any pornographic website that fails to take reasonable steps to ensure that no sexually explicit content uploaded to their website contain children who were under 18 at the time the content was created or people who did not consent to both the making of the content and to it being uploaded. If the operator of the website receives a complaint that a video or photograph violating these conditions has been uploaded, the operator will have 48 hours to remove the content. The bill also subjects the user who uploads the video to liability. Because this bill is solely focused on verifying the age and the consent of individuals, it does not regulate the ability of consenting adults to continue to create and share sexually explicit content.*

*This bill is substantially similar to AB 392 (Dixon; 2025), which passed out of the Assembly with zero “no” votes and passed Senate Judiciary unanimously before being held on the Senate Appropriations suspense file. This bill is supported by the California Initiative for Technology & Democracy (CITED), Oakland Privacy, the California District Attorneys’ Association, and the California Catholic Conference. There is no registered opposition.*

*If passed by this Committee, this bill will next be heard by the Judiciary Committee.*

**EXISTING LAW:**

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<sup>1</sup> Sophie Maddocks, *Image-Based Abuse: A Threat to Privacy, Safety, and Speech*, MediaWell (Mar. 15, 2023) <https://mediawell.ssrc.org/research-reviews/image-based-abuse-a-threat-to-privacy-safety-and-speech/>.

- 1) Establishes the standard for obscenity: “(a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.” (*Miller v. California* (1973) 414 U.S. 15, 24 [internal quotation marks and citations omitted].)
- 2) Prohibits a person from intentionally distributing an image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, under circumstances in which the persons agree or understand that the image shall remain private, the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress. (Penal Code § 647 (j) (4) (A).)
- 3) Makes it a crime to do any of the following:
  - a) Knowingly produce, develop, duplicate, distribute, or possess, in various specified formats, obscene matter depicting a minor personally engaging in or simulating sexual conduct, with the intent to provide the obscene matter to others. (Pen. Code § 311.1(a).)
  - b) Knowingly develop, duplicate, print, or exchange any representation of information, data, or image that depicts a minor engaged in an act of sexual conduct, regardless of whether the minor personally engaged in the sexual conduct or the depiction is obscene. (Pen. Code § 311.3(a).)
  - c) Knowingly employ, use, persuade, induce, or coerce—or in the case of parents or guardians, permit—a minor to engage or assist in posing or modeling in a performance involving sexual conduct, regardless of whether it is obscene, for a commercial purpose (Pen. Code § 311.4(b)) or not for a commercial purpose. (Pen. Code § 311.4(c))
  - d) Knowingly possess or control any matter, representation of information, data, or image, in various specified formats, the production of which involves the use of a person under 18 years of age personally engaging in or simulating sexual conduct. (Pen. Code § 311.11(a).)
- 4) 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, 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. (Civil Code § 1708.85 (a).)
- 5) Defines “intimate body part” as any portion of the genitals, and, in the case of a female, also includes any portion of the breast below the top of the areola, that is uncovered or visible through less than fully opaque clothing. (Civ. Code § 1708.85 (b).)
- 6) Exempts the person distributing material from liability pursuant to the above under certain circumstances, as defined. (Civ. Code § 1708.85 (c).)

- 7) Grants a cause of action for a depicted individual 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.)
- 8) Defines “deepfake pornography service” as an internet website, mobile application, or other service the primary purpose of which is to create digitized sexually explicit material. (Civ. Code § 1708.86 (a)(3))
- 9) Establishes, under Section 230 of the Communications Decency Act, that no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(1).)
- 10) Exempts from Section 230 protection violations of federal criminal law, intellectual property law, state law that is consistent with Section 230, communications privacy law, and sex trafficking law. (47 U.S.C. § 230(e).)
- 11) Defines “child pornography” as any visual depiction of sexually explicit conduct, where any of the following is true:
  - a) The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct.
  - b) The visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct.
  - c) The visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct. (18 U.S.C. § 2256.)

**THIS BILL:**

- 1) Defines the following terms:
  - a. “Depicted individual” means an individual who is depicted as engaging in sexual acts in sexually explicit content 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; (3) when the sexually explicit content was uploaded to the pornographic internet website, the individual did not consent to the uploading.
  - b. “Digitization” means a process by which any of the following are realistically depicted:
    - i. The nude body parts of another human being as the nude body parts of the depicted individual.

- ii. Computer-generated nude body parts as the nude body parts of the depicted individual.
    - iii. The depicted individual engaging in sexual conduct in which the depicted individual did not engage.
  - c. “Operator” means a person who operates an internet website.
  - d. “Pornographic internet website” means an internet website that permits users to upload, or solicits from users, sexually explicit content for display on the internet website.
  - e. “Sexual conduct” means any of the following:
    - i. Masturbation.
    - ii. Sexual intercourse, including genital, oral, or anal, whether between persons regardless of sex or gender or between humans and animals.
    - iii. Sexual penetration of the vagina or rectum by, or with, an object.
    - iv. The transfer of semen by means of sexual conduct from the penis directly onto the depicted individual as a result of ejaculation.
    - v. Sadomasochistic abuse involving the depicted individual.
  - f. “Sexually explicit content” means visual imagery, including imagery generated by artificial intelligence through digitization, of an individual or individuals engaging in sexual conduct that, taken as a whole, lacks serious literary, artistic, political, or scientific value.
  - g. “User” means a person or entity that uploads or otherwise provides sexually explicit content to a pornographic internet website.
- 2) States that an “internet website” does not include the following:
  - a. A service or application that provides email or direct messaging services, based on that function alone.
  - b. A service or application that provides cloud storage, file transfer services, or file collaboration, based on that function alone.
- 3) Requires an operator to exercise ordinary care, as defined in Section 1714 of the Civil Code, and reasonable diligence to ensure that each instance of sexually explicit content displayed on the operator’s internet website does not include a depicted individual.
- 4) Requires a user, before uploading sexually explicit content to a pornographic internet website, to submit both of the following to the operator of a pornographic internet website:
  - a. A statement certifying, under penalty of perjury, that the individuals depicted in the sexually explicit content meets all of the following criteria:

- i. The individuals were not minors at the time the sexually explicit content was created.
    - ii. The individuals consent to the sexually explicit content being uploaded to the internet on the pornographic internet website.
    - iii. The individuals 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. The operator must verify a user's email address before permitting the user to upload sexually explicit content to the operator's pornographic internet website.
- 5) Provides that an operator of a pornographic internet website who does not obtain the statement in (4)(a) shall be presumed to have violated (3).
- 6) Provides that knowingly providing false information described in (4) is an infraction punishable by a \$1000 fine.
- 7) Requires an operator of a pornographic website to retain the statement and information required under (4) in a readily available format for at least seven years after the statement and information are submitted.
- 8) Permits an operator of a pornographic website to require a user to submit the information required under (4) through a specific mechanism or medium.
- 9) Provides that a depicted individual who suffers harm as a result of sexually explicit content depicting the individual being displayed on a pornographic internet website may bring a civil action against:
  - a. The operator of the website, if the operator allowed the content to be uploaded to, or displayed on, its website in violation of the provisions in this section.
  - b. The user who uploaded the content, if the user knew or should have known that it included a depicted individual.
- 10) Permits a depicted individual who prevails in a civil action under (9) to obtain all of the following relief:
  - a. Actual damages or statutory damages in an amount that is not greater than \$75,000, whichever is greater.
  - b. Punitive damages.
  - c. Reasonable attorney fees and costs.
  - d. Any other available relief, including injunctive relief.
- 11) Permits a public prosecutor to bring a civil action to enforce 2)-6) to obtain all of the following relief:

- a. A civil penalty of \$25,000 per violation.
  - b. Injunctive and equitable relief.
  - c. Reasonable attorney fees and costs.
  - d. Any other relief the court deems appropriate.
- 12) Provides that each full calendar day that the sexually explicit content remains on the website constitutes a separate violation of this chapter.
- 13) Provides that the remedies provided in this section are cumulative and shall not be construed as restricting a remedy that is available under any other law.

#### COMMENTS:

1) **Authors' statements.** Assemblymember Rebecca Bauer-Kahan, one of the bill's coauthors, writes:

AB 1705, the RECLAIM Act, establishes meaningful accountability for platforms by requiring operators of pornographic websites to verify that sexually explicit content does not include people depicted without their consent. Every day, countless Californians, especially women and children, are victimized by non-consensual sexual imagery posted online without their knowledge or permission. Recent reporting has exposed how mainstream platforms host millions of videos depicting non-consensual content, including private images that were created consensually and videos and images that were created without the woman's knowledge or consent. The rise of generative AI has only added to the problem: so-called "undress" apps and AI chatbots can now create realistic nude or sexually explicit images from ordinary, fully clothed photographs within seconds. The impact of online harm such as image-based sexual abuse on its victims is profound. It causes women and girls to not only recede from spaces online, but from the public sphere altogether, thus chilling their first amendment right to free speech and participation. The RECLAIM Act gives women and girls their power back and the proper tools to hold perpetrators and operators of pornographic websites responsible.

Assemblymember Diane Dixon, the bill's other coauthor, states:

AB 1705 would require users to verify the age and consent of a depicted individual when uploading sexually explicit material to adult media sites. In a world where internet access and technological literacy are at an all-time high, it is far too easy for individuals to share nonconsensual sexually explicit materials online. We must look for every opportunity to protect Californians from having their personal images and videos uploaded without their consent. One in 12 people are a victim of image-based sexual abuse and anyone can become the next victim. AB 1705 represents a necessary barrier to prevent abuse from occurring in the first place and will hold both websites and the uploaders accountable for the content they are sharing.

2) **Image-based sexual abuse.** There are several ways that men and boys<sup>2</sup> weaponize intimate images to abuse women and girls:

- *Revenge porn.* The most predominant case is the nonconsensual distribution online of images that were originally consensually, but privately, shared with the offender. Often the man is the victim's current or former partner.
- *Up-skirting, down-blousing, or spy cam pornography.* This constitutes the sharing of images that were taken secretly, without the victim's knowledge. Pornhub advertises free "Spy Porn Videos" and xhamster offers "Voyeur Videos and Naughty Peeping Porn."
- *Rape porn.* Sometimes the men will film or photograph a sexual assault on an unconscious, inebriated, or otherwise nonconsenting woman or girl and then share it with friends or upload it online. On Pornhub and other pornography websites, these videos fall into the category of "Force Porn Videos." There are also websites like "RapeLust" and "Rape Porn TV" entirely dedicated these types of videos.
- *Sextortion.* These are nude or lewd images that are obtained coercively or fraudulently from victims through threats or deceit, with the men then going on to either distribute the images or threaten to do so unless money, more images, or sex are provided to them.
- *Deepfake Pornography.* This is an exploding genre of image-based sexual abuse where sexually explicit videos and images are forged using Artificial Intelligence and are often indistinguishable from genuine images.<sup>3</sup> Pornhub offers "deepfake porn videos" and "adultdeepfakes." The AdultDeepFakes.com website advertises the "Best Celebrity DeepFake Porn Videos."

The use of sexual abuse images to harass, humiliate, and harm women and girls predates the internet. What is new is the ease with which the images can be created and that the abuse can spread further and faster. Image-based sexual abuse is a very old form of sexual degradation and violation that has taken on new significance with emerging technologies and the growing move of social and professional life into digital spaces.<sup>4</sup>

In 1953, nude images of Marilyn Monroe were published on the cover of *Playboy* without her consent. Every decade since, high-profile women have been victimized.<sup>5</sup> The first Black woman to be crowned Miss America, Vanessa Williams, was forced to give up her crown in 1984 when Penthouse published nude photos of her without her consent. In 1995, actress Pamela Anderson and her husband, Tommy Lee, had a private sex tape stolen, copied, and sold through

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<sup>2</sup> According to Sophie Maddocks' review of image-based abuse research, "it has been borne out across the research literature that perpetrators. . .are mostly male." Along with being male, they are usually heterosexual and hold victim-blaming attitudes toward women. So, for purposes of this analysis the offenders will be referred to as men and boys. That does not mean, however, that women and girls do not commit image-based sexual abuse. It is just far less likely. <https://mediawell.ssrc.org/research-reviews/image-based-abuse-a-threat-to-privacy-safety-and-speech/>

<sup>3</sup> Testimony by Moira Donegan before this Committee on February 25, 2025.

<sup>4</sup> *Ibid.*

<sup>5</sup> Maddocks, Sophie. *Image-Based Abuse: A Threat to Privacy, Safety, and Speech*. Social Science Research Council, MediaWell. (Mar. 15, 2023) <https://mediawell.ssrc.org/research-reviews/image-based-abuse-a-threat-to-privacy-safety-and-speech/>.

underground channels before being widely distributed online. This incident remains in the zeitgeist 30 years later.<sup>6</sup> It marked a shift in how private videos could be exploited for profit on a large scale, foreshadowing the digital age of non-consensual intimate images and videos.

With the mainstream adoption of the internet, the circulation of stolen and leaked intimate content became easier. Mass file-sharing made it almost impossible for victims to regain control over their private images once they were online. During this period, websites dedicated to leaked celebrity content began appearing, often profiting off stolen or hacked material. As video-sharing sites like YouTube (2005), and later Pornhub (2007), became dominant, uploading and accessing explicit content became more accessible than ever.

By the late 2010s, deepfake pornography emerged as a new threat impacting women with public profiles and middle school girls alike. Using generative artificial intelligence (GenAI), deepfake creators can superimpose a woman's face onto an explicit video, making it appear as though they had actually engaged in the depicted acts. While high-profile celebrities were most often targeted when this technology was first developed, open-source GenAI models have been exploited to make this technology more accessible and affordable.<sup>7</sup> This led to a proliferation of websites and phone-based apps that offer user-friendly interfaces for uploading clothed images of real people to generate photorealistic nude images of not only adults, but also children. According to a 2024 *New York Times* article:

Boys in several states have used widely available “nudification” apps to pervert real, identifiable photos of their clothed female classmates, shown attending events like school proms, into graphic, convincing-looking images of the girls with exposed A.I.-generated breasts and genitalia. In some cases, boys shared the faked images in the school lunchroom, on the school bus or through group chats on platforms like Snapchat and Instagram, according to school and police reports.<sup>8</sup>

In 2018, fewer than 2,000 deepfake pornography videos had been uploaded to the best-known deepfake streaming site; by 2022, that number had grown to over 13,000 with 16 million views every month.<sup>9</sup> By 2023, researchers had determined that in the previous seven years at least 244,625 deepfake image-based sexual abuse videos had been uploaded to the top 35 websites that had been set up to either exclusively or at least partially host deepfake pornography videos. In addition, over the first nine months of 2023, 113,000 videos were uploaded to these websites.<sup>10</sup>

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<sup>6</sup> Lucy Cocoran, “The True Story Behind Pamela And Tommy’s Leaked Sex Tape Is Almost Too Crazy To Believe,” *Elle* magazine (May 17, 2021) accessed at <https://www.elle.com.au/culture/news/true-story-behind-pamela-anderson-and-tommy-lee-leaked-sex-tape-25256/>

<sup>7</sup> Brian Contreras, “Tougher AI Policies Could Protect Taylor Swift—And Everyone Else—From Deepfakes,” *Scientific American* (Feb. 8, 2024) accessed at [www.scientificamerican.com/article/tougher-ai-policies-could-protect-taylor-swift-and-everyone-else-from-deepfakes/](http://www.scientificamerican.com/article/tougher-ai-policies-could-protect-taylor-swift-and-everyone-else-from-deepfakes/).

<sup>8</sup> Natasha Singer, “Teen Girls Confront an Epidemic of Deepfake Nudes in Schools,” *New York Times* (Apr. 8, 2024) <https://www.nytimes.com/2024/04/08/technology/deepfake-ai-nudes-westfield-high-school.html>.

<sup>9</sup> Moira Donegan, “Demand for deepfake pornography is exploding. We aren’t ready for this assault on consent,” *The Guardian* (Mar. 13, 2023).

<sup>10</sup> Matt Burges, “Deepfake Porn is Out of Control,” *Wired* (Oct. 16, 2023) <https://www.wired.com/story/deepfake-porn-is-out-of-control/>.

In February 2024, deepfake nude images of 16 eighth-grade students were circulated among students at a California middle school.<sup>11</sup> Similar reports of abuses, almost always against girls, have been reported across the country and show no sign of abating.<sup>12</sup> In the first six months of 2024, these sites had been visited over 200 million times.<sup>13</sup> Meanwhile, a 2024 study from Center on Democracy and Technology reports that 40% of students were aware of deepfakes being shared at school, 15% of which depicted an individual in a sexually explicit or intimate manner. In over 60% of these cases, the images were distributed via social media.<sup>14</sup> This provides a potent means of amplifying deepfake nonconsensual pornography, extending the content's reach by, in effect, and crowdsourcing abuse, potentially reaching thousands or even millions of viewers.

In a 2024 *Guardian* article, gender equity expert and journalist Luba Kassova argued that “nonconsensual deepfake pornography has become a growing human rights crisis.” She asks readers to:

Imagine finding that someone has taken a picture of you from the internet and superimposed it on a sexually explicit image available online. Or that a video appears showing you having sex with someone you have never met.

Imagine worrying that your children, partner, parents or colleagues might see this and believe it is really you. And that your frantic attempts to take it off social media keep failing, and the fake “you” keeps reappearing and multiplying. Imagine realising that these images could remain online forever and discovering that no laws exist to prosecute the people who created it.<sup>15</sup>

Image-based abuse has become a general risk faced by millions of women and girls and there is very little they can reasonably do to prevent their own victimization.

*xAI's Grok*. Over the course of 11 days, between December 29, 2025, and January 8, 2026, men and boys around the world used Grok's image generator to create approximately 3 million fake,

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<sup>11</sup> Mackenzie Tatananni, “‘Inappropriate images’ circulate at yet another California high school, as officials grapple with how to protect teens from AI porn created by classmates,” *Daily Mail* (Apr. 11, 2024) <https://www.dailymail.co.uk/news/article-13295475/Inappropriate-images-California-Fairfax-High-School-AI-deepfake.html>.

<sup>12</sup> Tim McNicholas, “New Jersey high school students accused of making AI-generated pornographic images of classmates,” CBS News (Nov. 2, 2023) <https://www.cbsnews.com/newyork/news/westfield-high-school-ai-pornographic-images-students/>; Lauraine Langreo, “Students Are Sharing Sexually Explicit ‘Deepfakes.’ Are Schools Prepared?” *Ed Week* (Sept. 26, 2024) <https://www.edweek.org/leadership/students-are-sharing-sexually-explicit-deepfakes-are-schools-prepared/2024/09>; Gabrielle Hunt and Daryl Higgins “AI nudes of Victorian students were allegedly shared online. How can schools and parents respond to deepfake porn?,” *The Guardian* (June, 12, 2024) <https://www.theguardian.com/australia-news/article/2024/jun/12/ai-nudes-of-victorian-students-were-allegedly-shared-online-how-canschools-and-parents-respond-to-deepfake-porn>.

<sup>13</sup> *People of the State of California v. Sol Ecom, Inc, et al.* (2024) Case No. CGC-24-617237, p. 2, [https://www.sfcityattorney.org/wp-content/uploads/2024/08/2024-08-16-First-Amended-Complaint\\_Redacted.pdf](https://www.sfcityattorney.org/wp-content/uploads/2024/08/2024-08-16-First-Amended-Complaint_Redacted.pdf)

<sup>14</sup> Elizabeth Laird, Maddy Dwyer and Kristin Woelfel, “In Deep Trouble: Surfacing Tech-Powered Sexual Harassment in K-12 Schools,” Center for Democracy & Technology (Sept. 26, 2024) <https://cdt.org/wp-content/uploads/2024/09/FINAL-UPDATED-CDT-2024-NCII-Polling-Slide-Deck.Pdf>.

<sup>15</sup> Kassova, Luba. “Tech bros need to realise deepfake porn ruins lives – and the law has to catch up,” *The Guardian* (Mar. 1, 2024) <https://www.theguardian.com/global-development/2024/mar/01/tech-bros-nonconsensual-sexual-deepfakes-videos-porn-law-taylor-swift>.

sexualized images of women and girls.<sup>16</sup> It is estimated that 23,000 of those images depicted children.<sup>17</sup> Three of the teenage girls depicted in the images, two of whom are minors, have filed a suit in California claiming that Grok’s image generator used photos of them “produce and distribute child sexual abuse material.”<sup>18</sup> *The Washington Post* reports, “The edited photos spread across Discord and Telegram in recent months, and some were bartered for other child sexual abuse material in online chatrooms, according to the complaint.”<sup>19</sup> *The Washington Post* further notes:

The lawsuit said that one of the child sexual abuse images of her originated from a photo of her at her school homecoming in September. Another, depicting her topless, appeared to have been made using a yearbook photo, the lawsuit said. She “was a minor during the operative time,” the lawsuit said.

She received a link to a Discord server, “which contained images and videos of at least 18 other minor females, many of whom Jane Doe 1 recognized from her school,” according to the lawsuit.<sup>20</sup>

While the outrage around Grok focused primarily on the images that were uploaded to X (formerly Twitter), researchers and investigative journalists have found that Grok’s capabilities include sophisticated video generation that is being used to produce extremely graphic, sometimes violent, sexual imagery.<sup>21</sup> Though the videos created using Grok’s Imagine model are not public by default, a user can share them on Grok.com or upload them to pornography websites.<sup>22</sup> While some of the videos are of AI-generated women and men, others include imagery of real-life women who are public figures.<sup>23</sup> Researchers have also found that out of 800 posts of sexually explicit videos, a little less than 10 percent appeared to be of children.<sup>24</sup>

**3) The impact of sexual abuse imagery on women and girls.** Regardless of the form the image-based sexual abuse takes, the weaponizing of these images and videos can destroy the lives of women and girls. Maintaining a “good” online identity has become essential in contemporary society. Applying for college or a job, online dating, even ordering an Uber or food delivery depend on a person’s ability to create a good online identity.<sup>25</sup> Beyond the damage to their future, women and girls often face deep emotional and psychological harm. Thirty years

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<sup>16</sup> Center for Countering Digital Hate blog post *Grok floods X with sexualized images of women and children* (Jan. 22, 2026) <https://counterhate.com/research/grok-floods-x-with-sexualized-images/#about>.

<sup>17</sup> *Ibid.*

<sup>18</sup> Nick Robins-Early. “Teenage girls sue Musk’s xAI, accusing Grok tool of creating child sexual abuse material.” *The Guardian* (Mar. 16, 2026). <https://www.theguardian.com/technology/2026/mar/16/lawsuit-elon-musk-ai-grok-child-sexual-abuse>.

<sup>19</sup> Faiz Siddiqui. “Teens allege Musk’s Grok chatbot made sexual images of them as minors,” *The Washington Post* (Mar. 16, 2026). <https://www.washingtonpost.com/technology/2026/03/16/teens-sue-musk-xai-grok/>.

<sup>20</sup> *Ibid.*

<sup>21</sup> Matt Burgess and Maddy Varner. “Grok is Generating Sexual Content Far More Graphic than what’s on X,” *Wired* (Jan. 7, 2026). <https://www.wired.com/story/grok-is-generating-sexual-content-far-more-graphic-than-whats-on-x/>.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> Sophie Maddocks, *Image-Based Abuse: A Threat to Privacy, Safety, and Speech*, MediaWell (Mar. 15, 2023) <https://mediawell.ssrc.org/research-reviews/image-based-abuse-a-threat-to-privacy-safety-and-speech/>.

after the theft of her intimate video with her husband, Pamela Anderson, a rape survivor, equates the theft and release of the tape to being raped again.<sup>26</sup>

Other women who have experienced image-based sexual abuse, whether deepfakes or otherwise, also compare the experience to being sexually assaulted. Women have reported feeling so much shame about their body because of deepfake images that they couldn't look in a mirror. One woman reported that she could not shower for days after she discovered deepfaked images of her online because she felt "so gross" and "didn't want to see her body." The first time she showered, "[when] she took her clothes off, and she walked past the mirror in the bathroom she just sobbed."<sup>27</sup>

According to various experts, post-traumatic stress disorder is common among victims who often "can't reach a place of psychological safety because their images are never fully deleted."<sup>28</sup> Studies of victims indicate that these women and girls suffer other severe mental health affects as well, including anxiety, depression, suicidal ideation, and difficulty trusting loved ones. They are at increased risk of substance abuse, eating disorders, and self-harm. They are more likely to leave their jobs and they are more likely to experience major disruptions in their education.<sup>29</sup> The vulnerability of women and girls and their inability to protect themselves from the threat of image-based sexual abuse stops them from being able to fully and equally participate in public life, chilling their fundamental rights of association and free speech.

**4) Why do men and boys commit this type of abuse.** Moira Donegan, Writer in Residence at the Michelle R. Clayman Institute for Gender Research at Stanford University, testified in 2025 at an informational hearing held by this Committee on technology-facilitated male violence against women and girls:

One investigation by a researcher at Michigan State University found that perpetrators cite three types of motivation: to show off; to bully; and to seek revenge. . . Nonconsensual pornography aims to punish women for a perceived grievance men have against them, or to discipline a perceived transgression on the women's part. It is wielded against women and girls who break up with men in whom they were no longer romantically interested, enforcing a punishment for defying men's wishes. It is wielded against women who speak or behave in ways that men disagree with, enforcing a punishment for defying men's standards.

In all cases, the message sent by nonconsensual pornography is one of men's social domination over women. The message is that women and men are not equals, but that women must defer to men and that those who do not will be humiliated and made to suffer. And the infliction of this suffering is very much deliberate.<sup>30</sup>

One could argue that for many perpetrators, causing women and girls trauma and humiliating them is the point.

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<sup>26</sup> *PAMELA a love story*, 2023, available on Netflix.

<sup>27</sup> Jess Davies. "I investigated deepfake technology and found *hundreds* of men using it to create non-consensual porn," *Glamour UK* (Feb. 6, 2024) <https://www.glamourmagazine.co.uk/article/deepfake-porn-twitch-scandal>

<sup>28</sup> Sophie Maddocks (2023)

<sup>29</sup> Testimony by Moira Donegan before this Committee on February 25, 2025.

<sup>30</sup> Testimony taken from an automatically generated transcript of Ms. Donegan's testimony. <https://calmatters.digitaldemocracy.org/hearings/258546>.

5) **Pornhub.** Aylo (formerly MindGeek), the multinational pornographic conglomerate was launched in 2004 and purchased by Ethical Capital Partners, a privately held equity firm, in 2023. The company owns Pornhub, RedTube, and YouPorn, among other platforms. In addition to platforms, the company owns a number of pornography studios including Brazzers, Digital Playground, Men.com, Reality Kings, Sean Cody, and WhyNotBi.com.<sup>31</sup> In January 2024, Pornhub saw over three billion visits to its website in the United States alone. In November 2024, Pornhub was the seventh most popular website in the world with 5.25 billion visits.<sup>32</sup>

In a 2020 *New York Times* opinion piece, Nicholas Kristof exposed an uglier side of the platform whose parent company prides itself on providing world-class adult entertainment on some of the internet's safest platforms.<sup>33</sup> "It is infested with rape videos. It monetizes child rapes, revenge pornography, spy cam videos of women showering, racist and misogynist content, and footage of women being asphyxiated in plastic bags."<sup>34</sup> Kristoff interviewed a number of young women who had been trafficked when they were young and sexually abusive videos of them had shown up on Pornhub. He mentions one 15-year-old girl who went missing in Florida and her mother found her on Pornhub "in 58 sex videos." In another interview, a young woman said that "Pornhub became [her] trafficker." Her adoptive family had forced her to appear in pornographic videos beginning when she was nine years old. "Some videos of her being abused ended up on Pornhub and regularly reappear there," she said. The young woman is now 23.<sup>35</sup> Just days after that article was published, Visa and Mastercard announced that they would no longer allow cardholders to use their cards on Pornhub. In December 2023, the company that operates Pornhub, acknowledged in federal court that it had profited for years from pornographic content that depicted sex trafficking victims.<sup>36</sup>

Soon after the *Times* article in 2020, Pornhub announced a series of changes to its platform, including users to be verified before uploading content and requiring users to maintain proof of identification, age and consent for all performers. Despite these claims, in September of 2025, the Federal Trade Commission (FTC) and the state of Utah took action against Pornhub (among other sites) alleging that they had deceived users by "doing little to block tens of thousands of videos and photos featuring child sexual abuse material (CSAM) and nonconsensual material (NCM) despite claiming that this content was 'strictly prohibited.'"<sup>37</sup>

6) **What this bill would do.** This bill is intended to hold those profiting from the uploading of image-based sexual abuse of women and girls liable for the distribution and sharing of those images. Specifically, this bill:

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<sup>31</sup> Wikipedia. <https://en.wikipedia.org/wiki/Aylo>.

<sup>32</sup> <https://www.statista.com/statistics/1201880/most-visited-websites-worldwide/>.

<sup>33</sup> <https://aylo.com/>

<sup>34</sup> Nicholas Kristof. "The Children of Pornhub" *New York Times* (Dec. 4, 2020) <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>.

<sup>35</sup> *Ibid.*

<sup>36</sup> Erin Nolan. "Pornhub's Parent Company Admits to Profiting From Sex Trafficking," *New York Times* (Dec. 21, 2023) <https://www.nytimes.com/2023/12/21/nyregion/pornhub-aylo-profits-sex-trafficking.html?searchResultPosition=2>

<sup>37</sup> FTC Press Release: *FTC Takes Action Against Operators of Pornhub and other Pornographic Sites for Deceiving Users About Efforts to Crack Down on Child Sexual Abuse Material and Nonconsensual Sexual Content* (Sep. 3, 2025). <https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-takes-action-against-operators-pornhub-other-pornographic-sites-deceiving-users-about-efforts>.

- Requires the operator of a pornography platform to exercise “ordinary care” and take “reasonable steps” to make sure that uploaded content does not include anyone who was under 18 at the time the video was made or contain anyone who did not consent to the making and the uploading of the video.
- Requires a user to submit a statement attesting to the fact that content meets the requirements, like Pornhub’s current policies, and provide information that allows the platform to contact the user if necessary.
- Establishes a private right of action against both the platform and the user for an individual who suffers harm because of a violation of the provisions described above. Enables depicted individuals to obtain up to \$75,000 in statutory damages per violation, as well as punitive damages, attorney’s fees, and any other available relief.
- Public prosecutors may also bring actions and obtain the same remedies, although the civil penalty in those cases is capped at \$25,000 per violation.

Nothing in this bill restricts the uploading of pornography that is made by consenting adults.

**7) Constitutional considerations.** By imposing liability for the posting of nonconsensual sexually explicit content on users of pornographic websites and the websites themselves, this bill implicates the First Amendment and federal preemption under Section 230 of the federal Communications Decency Act of 1996.

*First Amendment.* The United States and California Constitutions prohibit abridging, among other fundamental rights, freedom of speech.<sup>38</sup> Sexual expression that is indecent but not obscene is protected by the First Amendment.<sup>39</sup> The test for obscenity was set forth in *Miller v. California*: “(a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.”<sup>40</sup> This bill, like several statutes outlawing nonconsensual pornography, incorporates the subjective criteria from (c) into the definition of “sexually explicit content.” Moreover, the bill incorporates objective criteria into the material it covers by applying only to sexually explicit content depicting a person who did not, or could not, consent to its creation or distribution – namely child, rape, revenge, or deepfake pornography. Such materials – depicting crimes – have not historically received First Amendment protection.<sup>41</sup> Nonetheless, to avoid chilling the posting of consensual sexual materials, the author may wish to work with stakeholders to continue to refine the bill’s liability provisions in the Assembly Judiciary Committee, which awaits the bill.

*Federal preemption.* Section 230(c)(1) of the federal Communications Decency Act of 1996 shields online platforms from liability for third-party content: “No provider or user of an

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<sup>38</sup> U.S. Const., 1st and 14th Amends; Cal. Const. art. I, § 2.

<sup>39</sup> *Sable Communications of Cal. v. FCC* (1989) 492 U.S. 115, 126.

<sup>40</sup> (1973) 414 U.S. 15, 24.

<sup>41</sup> See this Committee’s recent analysis of AB 621 (Bauer-Kahan), quoting First Amendment scholar and professor of constitutional law Erwin Chemerinsky.

interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”<sup>42</sup> This provision has been hailed as the law that created the modern internet, fostering free expression online and allowing an array of innovative services and spaces to flourish, from search engines to social media.<sup>43</sup> It has also come with a destructive side, absolving platforms of responsibility for virtually all third-party harms arising from the use of their services – “a protection not available to print material or television broadcasts.”<sup>44</sup>

Section 230 was intended to promote investment in online companies and encourage “‘Good Samaritan’ blocking and screening of offensive material”<sup>45</sup> without fear of liability for defamation.<sup>46</sup> Courts soon adopted an expansive interpretation – a key early decision construed “publisher” immunity as encompassing “traditional editorial functions” such as deciding whether to publish, remove, or even alter content.<sup>47</sup> Consequently, the plaintiff, a victim of online defamation by an anonymous user, had no recourse against the platform despite its failure to timely remove the content, which would have resulted in liability in the offline world. Following this logic, courts have extended Section 230 well beyond the defamation context, routinely concluding that online intermediaries are not liable for harms related to third-party illicit content.<sup>48</sup> “The common thread weaving through these cases is that the courts have sapped §230’s Good Samaritan concept of its meaning.”<sup>49</sup>

This sweeping grant of immunity has been the subject of widespread criticism and calls for reform.<sup>50</sup> Senators Lindsey Graham and Dick Durbin have introduced a bill that would sunset Section 230.<sup>51</sup> Justice Clarence Thomas has called for the Supreme Court to review the scope of Section 230.<sup>52</sup> Ninth Circuit Judge Ryan Nelson recently stated that courts have “stretch[ed] the statute’s plain meaning beyond recognition,” leading to “perverse effects.”<sup>53</sup> The Ninth Circuit “should revisit our precedent,” he urged, particularly in light of “artificial intelligence raising the specter of lawless and limitless protections.”<sup>54</sup>

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<sup>42</sup> 42 U.S.C. § 230(c)(1). Section 230 also (1) provides a safe harbor for good faith content moderation, (2) preempts contrary state laws, and (3) enumerates exemptions for enforcement of federal criminal statutes, intellectual property laws, communications privacy laws, and sex trafficking.

<sup>43</sup> See e.g., Kosseff, *The Twenty-Six Words that Created the Internet* (2019).

<sup>44</sup> Quinta Jurecic, “The politics of Section 230 reform: Learning from FOSTA’s mistakes” *Brookings* (Mar. 1, 2022), <https://www.brookings.edu/articles/the-politics-of-section-230-reform-learning-from-fostas-mistakes>.

<sup>45</sup> § 230(c).

<sup>46</sup> *Fair Hous. Council v. Roommates.com, LLC* (9th Cir. 2008) 521 F.3d 1157, 1163.

<sup>47</sup> *Zeran v. Am. Online, Inc* (4th Cir. 1997) 129 F.3d 327.

<sup>48</sup> Michael Rustad & Thomas Koenig, “The Case for a CDA Section 230 Notice-and-Takedown Duty” (2023) 23 Nev.L.J. 533, 561-574.

<sup>49</sup> Danielle Keats Citron, “How to Fix Section 230” (2023) 103 B.U.L. Rev. 713, 727.

<sup>50</sup> E.g., John Lucas, “AG Moody Joins with Other Attorneys General to Urge Congress to Stop Protecting Illegal Activity on the Net,” *Capitolist* (May 23, 2019), <https://thecapitolist.com/ag-moody-joins-with-other-attorneys-general-to-urge-congress-to-stop-protecting-illegal-activity-on-the-net>.

<sup>51</sup> “Durbin, Graham Introduce Bill To Sunset Section 230 Immunity For Tech Companies, Protect Americans Online” (Dec. 18, 2025), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-graham-introduce-bill-to-sunset-section-230-immunity-for-tech-companies-protect-americans-online>.

<sup>52</sup> *Doe ex rel. Roe v. Snap, Inc.* (2024) 144 S. Ct. 2493 (Thomas, J., dissenting from denial of certiorari).

<sup>53</sup> *Calise v. Meta Platforms, Inc.* (9th Cir. 2024) 103 F.4th 732, 747 (Nelson, J. concurring) (*Calise*).

<sup>54</sup> *Ibid.*

Courts have emphasized, however, that Section 230 immunity is not limitless.<sup>55</sup> Section 230 is not “an all-purpose get-out-of-jail-free card”<sup>56</sup> that “create[s] a lawless no-man’s-land on the internet.”<sup>57</sup> The Ninth Circuit has “consistently eschewed an expansive reading of the statute that would render unlawful conduct ‘magically . . . lawful when [conducted] online,’ and therefore ‘giv[ing] online businesses an unfair advantage over their real-world counterparts.’”<sup>58</sup>

Under Ninth Circuit precedent, Section 230(c)(1) immunity exists for “(1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat, under a state law cause of action, as a publisher or speaker (3) of information provided by another information content provider.”<sup>59</sup> With respect to the third prong, Section 230 protection extends only to claims that “derive[] from the defendant’s status or conduct as a publisher or speaker.”<sup>60</sup> If, instead, the claim “springs from something separate from the defendant’s status as a publisher, such as from . . . obligations the defendant has in a different capacity,” Section 230 immunity does not apply.<sup>61</sup> Examples of such cases include:

- Yahoo’s promise and subsequent failure to remove revenge pornography and defamatory content, as the asserted liability derived from contract principles.<sup>62</sup>
- A networking website owner’s unlawful failure to warn a woman who was raped by two users of the website who posed as talent scouts to lure her to a fake audition, where it was alleged that an outside source had informed the owner about the predatory scheme.<sup>63</sup>
- A city ordinance that required short-term home rental websites to refrain from completing booking transactions for properties not registered with the city, and to refrain from collecting or receiving a fee for “facilitating or providing services ancillary to a vacation rental or unregistered home-share.”<sup>64</sup>
- Snap’s allegedly defectively-designed app, which promoted content that encouraged two teen boys who died in a high-speed car accident to drive at dangerous speeds.<sup>65</sup>
- The claim that Google aided and abetted terrorism by sharing advertising revenue with ISIS.<sup>66</sup>
- Platforms that processed payments for unlawful purchases of virtual chips for illegal casino apps.<sup>67</sup>

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<sup>55</sup> *Calise, supra*, 103 F.4th at p. 739, citing cases.

<sup>56</sup> *Doe v. Internet Brands, Inc.* (9th Cir. 2016) 824 F.3d 846, 853.

<sup>57</sup> *HomeAway.com v. City of Santa Monica* (9th Cir. 2018) 918 F.3d 676, 683.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Barnes v. Yahoo!, Inc.* (9th Cir. 2009) 570 F.3d 1096, 1109.

<sup>60</sup> *Id.* at p. 1102.

<sup>61</sup> *Calise, supra*, 103 F.4th at p. 742.

<sup>62</sup> *Barnes, supra*, 570 F.3d at p. 1109.

<sup>63</sup> *Doe v. Internet Brands, Inc., supra*, pp. 852-853

<sup>64</sup> *HomeAway.com, Inc. v. City of Santa Monica* (9th Cir. 2019) 918 F.3d 676, 682 (*HomeAway*).

<sup>65</sup> *Lemmon v. Snap, Inc.* (9th Cir. 2021) 995 F.3d 1085, 1092.

<sup>66</sup> *Gonzalez v. Google LLC* (9th Cir. 2021) 2 F.4th 871, 890 (*Gonzalez*). This case was eventually resolved on the grounds that the plaintiffs did not allege facts sufficient to show a violation of anti-terrorism laws.

<sup>67</sup> *In re Apple Inc. Litig.* (N.D.Cal. 2022) 625 F. Supp. 3d 971, 994.

While these cases are highly fact-specific, taken together they establish that Section 230 does not shield conduct, including sharing revenue or otherwise facilitating illegality, that can be characterized as the platform's own unlawful act.<sup>68</sup> Here, a persuasive argument can be made that liability for commercial pornographic websites that share revenue or facilitate creators and distributors of child, rape, revenge, or deepfake pornography "springs from something separate from the defendant's status as a publisher, such as from . . . obligations the defendant has in a different capacity." Thus, such claims may survive a Section 230 defense.

8) **Related legislation.** In 2025, this Committee passed AB 392 (Dixon), a substantially similar bill. That bill passed through the Assembly with no "no" votes but was held on the Senate Appropriations suspense file.

This Committee also passed AB 621 (Bauer-Kahan; Ch. 673, Stats. 2025), a bill that updates an existing law that provides a civil cause of action against creators and distributors of sexually explicit deepfakes by expressly incorporating "nudification" websites and those that knowingly or recklessly facilitate violations of the law, including by providing essential services to nudification websites. Taken together, AB 621 and AB 1705 arguably could significantly reduce the creation and distribution of image-based sexual abuse material.

**ARGUMENTS IN SUPPORT:** Arguing in support of the bill, the California Initiative for Technology & Democracy (CITED) notes:

Social media is awash in sexually explicit content, much of it created or uploaded without consent. While much of this content is illegal and certainly harmful to those depicted in it, and while there are state and national laws that make creating or sharing such content a crime, it is often impossible to find the posters and social media platforms and websites. Even with the 2025 federal TAKE IT DOWN Act, these platforms have been able to avoid some responsibility for these images. Unfortunately, nonconsensual sexually explicit content continues to proliferate online.

AB 1705 creates clear requirements for both pornographic website operators and users to prevent the proliferation of such content, explicitly requiring website operators to exercise ordinary care and reasonable diligence, in addition to seeking identification from its posters and requiring them to certify that the persons depicted in the images have consented. If the operator fails to obtain the required user certification, they are presumed to have violated their duty of care. The bill importantly provides strong penalties for failure to comply.

Nonconsensual sexually explicit content violates individuals' privacy, can go viral in an instant, and can cause irreparable harm. Thank you for authoring this important legislation to stop the proliferation of these images and better protect women and girls.

Oakland Privacy writes in support:

Assembly Bill 1705 seeks to protect a fairly basic privacy right: the right to not have personal sexual moments publicized on the Internet without consent. The premise of bodily autonomy, for all people but in particular women, who are by far the most likely to be victimized, is that what we show or do not show to others is the decision of the body-owner and no one else.

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<sup>68</sup> See *ibid.*

There is nothing about sexual activity that is public by default, and all people have an unlimited right to limit the consumption of content that depicts them engaging in sexual activity.

The California District Attorneys' Association also writes in support:

We strongly support AB 1705 for its essential role in protecting children and non-consenting victims from the unauthorized display of their images on pornographic websites.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

CA Commission on the Status of Women and Girls  
California Catholic Conference  
California District Attorneys Association  
California Initiative for Technology & Democracy, a Project of California Common CAUSE  
California Survivor Coalition  
Childrens Advocacy Institute  
Consumer Attorneys of California  
Oakland Privacy

**Opposition**

None on file.

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