



CHILDREN'S ADVOCACY INSTITUTE



Jewish Family and Children's Services
OF SAN FRANCISCO, THE PENINSULA, MARIN AND SONOMA COUNTIES



Rainbow Spaces

June 16, 2025

The Honorable Rebecca Bauer-Kahan Chair,
Assembly Privacy and Consumer Protection Committee
Hon. Committee Members
1020 N Street, Room 162
Sacramento, CA 95814

Honorable Ash Kalra, Chair
Assembly Committee on Judiciary
Hon. Committee Members
1020 N Street, Room 104
Sacramento, CA 95814

RE: SUPPORT AND CO-SPONSORSHIP FOR SB 771 (STERN)

Dear Chairs Bauer-Kahan and Kalra and Honorable Committee Members:

The Children's Advocacy Institute at the University of San Diego School of Law, the Consumer Federation of California, Jewish Family and Children's Services of San Francisco, Rainbow Spaces, San Diego Democrats for Equality Executive Board, and Loma LGBTQIA+ Alumni and Allies are honored to join in urgent co-sponsorship of SB 771. We implore you and your colleagues to vote for it.

SB 771 is, in the main, prompted by Meta announcing in January that is dramatically altering its Facebook and Instagram practices that previously sought to protect historically targeted groups on those platforms. Internal examples offered to Meta employees of what these new policies permit were leaked to *The Intercept*. Here are some:



Other examples: **“Women as household objects or property”**² is permitted. So are **“Gays are freaks,” “Immigrants are grubby, filthy pieces of shit,” “These damn immigrants can’t be trusted, they’re all criminals,” “Japanese are all Yakuza.” “Trans people are mentally ill” and “Black people are more violent than Whites.”**³ Again, these are from Meta’s own internal documents.

Notably, this policy change does not hit all users equally. As the Senate Judiciary Committee’s analysis at p. 11 correctly states, men, for example, are still protected:

So while Meta’s policy would flag “men are crazy,” posts such as “gay people are sinners,” “trans people are immoral” and “trans people are mentally ill” are all specifically allowed.

Indeed, Meta’s very own Oversight Board underscores the need for a bill that will prompt greater care from Meta, writing:

*On the broader policy and enforcement changes hastily announced by Meta in January, the Board is concerned that Meta has not publicly shared what, if any, prior human rights due diligence it performed in line with its commitments under the UN Guiding Principles on Business and Human Rights. It is vital Meta ensures adverse impacts on human rights globally are identified and prevented.*⁴

And, thanks to a recent error for which Meta was forced to issue an apology, we now have a small window on the kind of ghastly, potentially terrorizing content it permits and can distribute to targeted groups: “The videos, featured on some users’ Reels’ tab, showed people apparently being shot to death or run over by vehicles.”⁵ “Numerous Instagram users on Tuesday had reported

¹ <https://theintercept.com/2025/01/09/facebook-instagram-meta-hate-speech-content-moderation/>

² <https://www.cnn.com/2025/01/07/tech/meta-hateful-conduct-policy-update-fact-check/index.html>

³ <https://theintercept.com/2025/01/09/facebook-instagram-meta-hate-speech-content-moderation/>

⁴ <https://www.oversightboard.com/decision/bun-lj939ea3/> <https://www.oversightboard.com/decision/bun-lj939ea3/>

⁵ <https://thehill.com/policy/technology/5166899-meta-apologizes-for-error-that-resulted-in-violent-content-flooding-instagram-feeds/>

seeing a stream of recommended videos in their Reels feed showing people being beaten or killed.”⁶

WHAT IS DISTRIBUTED ON SOCIAL MEDIA TOO OFTEN RESULTS BLOODSHED, HARASSMENT, AND INTIMIDATION.

As one expert has observed, “[t]he reason many of [Meta’s] lines were drawn where they were is because hate speech often doesn’t stay speech, it turns into real-world conduct.”⁷ Indeed, and for example, analyses by institutions such as Harvard’s law school have documented a cause-and-effect relationship between widespread violence, including genocide, against historically targeted groups and the practices of social media platforms:

Facebook contributed to a genocide in Myanmar ... [T]he outcomes in Myanmar were a predictable result of Facebook’s business model in combination with a striking lack of moderation or enforcement of the company’s own code of conduct. ... With no international legal mechanism capable of holding Facebook accountable, the company operated without regard for the human rights of Myanmar’s citizens.⁸

As Amnesty International observed in response to Meta’s change, “Recent content policy announcements by Meta pose a grave threat to vulnerable communities globally and drastically increase the risk that the company will yet again contribute to mass violence and gross human rights abuses.”⁹

Apart from genocide, other experts have documented cause-and-effect relationships between social media practices and teen and gang violence¹⁰ and teen – especially teen girl¹¹ – suicide.¹²

GLAAD's president and CEO, Sarah Kate Ellis, has affirmed the connection between social media practices and real-world harm to LGBTQ+ citizens: "The hate and harassment, as well as misinformation and flat-out lies about LGBTQ people, that go viral on social media are creating real-world dangers [including] recent threats of violence at Pride gatherings."¹³

Ellis went on to say, "Social media platforms are active participants in the rise of anti-LGBTQ cultural climate and their only response can be to urgently create safer products and policies, and then enforce those policies."¹⁴

⁶ <https://www.cnn.com/2025/02/27/tech/meta-apologizes-glitch-violent-reels/index.html>

⁷ <https://theintercept.com/2025/01/09/facebook-instagram-meta-hate-speech-content-moderation/>

⁸ <https://systemicjustice.org/article/facebook-and-genocide-how-facebook-contributed-to-genocide-in-myanmar-and-why-it-will-not-be-held-accountable/> An investigation by the United Nations also blamed Facebook: <https://www.reuters.com/article/world/un-investigators-cite-facebook-role-in-myanmar-crisis-idUSKCN1GO2Q4/>

⁹ <https://www.amnesty.org/en/latest/news/2025/02/meta-new-policy-changes/>

¹⁰ <https://www.propublica.org/article/social-media-violence-young-americans>

¹¹ <https://news.byu.edu/intellect/10-year-byu-study-shows-elevated-suicide-risk-from-excess-social-media-time-for-young-teen-girls>

¹² <https://www.bloomberg.com/news/features/2023-04-20/tiktok-effects-on-mental-health-in-focus-after-teen-suicide>

¹³ <https://www.npr.org/2022/07/13/1111113396/glaad-social-media-report-lgbtq-online-harassment>

¹⁴ Ibid.

Instead, Big Tech is doing far less and not just in these policies. Across-the-board, all the Big Tech platforms – record earnings and repeated earnest promises notwithstanding – have recently slashed safety budgets. As NBC reported last year:

Big Tech companies reveal trust and safety cuts in disclosures to Senate Judiciary Committee

In new disclosures to the Senate Judiciary Committee, Big Tech companies revealed the details around deep cuts made to trust and safety departments across the industry in recent years.¹⁵

THIS IS THE WORST POSSIBLE TIME FOR META TO OFFER LESS PROTECTION TO VULNERABLE GROUPS.

Meta’s change could not come at a worse time for historically targeted Californians. Violence, threats, and intimidation specifically aimed at historically vulnerable populations – Jews, LGBTQ+ community members, women, immigrants, and people of color especially – are at historic highs and rising at record-shattering rates in California.

For example, in L.A. County’s most recent hate crime report, the County documented both double or triple digit increases in hate crimes resulting in “the largest number[s] ever recorded” against the LGBTQ+ community, Jews, Asians, Blacks, Latinos, and immigrants.¹⁶ The County’s actual report is truly frightening and quoting it emphasizes the life-and-death stakes here:

Key findings show a sharp increase in victimization across multiple groups, with record levels of hate crimes targeting African Americans, Asians, Jewish people, Latino/as, LGBT individuals, and transgender people.*

- Reported hate crimes dramatically increased 45% from 930 in 2022 to 1,350 in 2023, the largest number in the history of this report and surpassing the 1,031 hate crimes from 2001 when the September 11th attacks occurred.
- There were 99 anti-transgender crimes, representing a 125% increase. This is the largest number ever documented. A staggering 97% of these crimes were violent.
- Religious crimes spiked 90% and were the second largest motivation. Anti-Jewish hate crimes rose 91% from 127 to 242. This is the largest number of anti-Jewish crimes ever recorded.
- African Americans were again grossly over-represented in reported racial hate crimes, constituting 49% of racial hate crime victims. The 320 anti-Black crimes were the highest number ever recorded.
- Anti-LGBT* crimes rose 48% from 173 to 256. This was the largest number ever documented. 73% of these crimes targeted gay men.

¹⁵ <https://www.nbcnews.com/tech/tech-news/big-tech-companies-reveal-trust-safety-cuts-disclosures-senate-judicia-rcna145435>

¹⁶ <https://lacounty.gov/2024/12/11/highest-total-of-hate-crimes-ever-reported/>

- Anti-Latino/a crimes rose 19% from 121 to 144. This is the highest number ever recorded. Racial crimes targeting Latino/as were the most violent (87%) of all racial and ethnic groups.
- Anti-Asian crimes, after dipping the year prior, increased 31%. The 80 victims were the second highest number ever recorded.
- In 2023, there were 209 crimes with evidence of White supremacist ideology, and this was the highest number ever recorded in this report. They comprised 15% of all reported hate crimes.
- Hate crimes in which anti-immigrant slurs were used climbed 31%. The 123 crimes recorded in 2023 comprised the largest number ever recorded. Suspects used anti-immigrant language in 71% of anti-Latino/a crimes and in 18% of anti-Asian offenses.¹⁷

CURRENT CALIFORNIA LAW OFFERS A POTENTIAL REMEDY, BUT ONLY (1) IF CLARIFIED AND (2) IF THE FINANCIAL PENALTIES ARE SUFFICIENT GIVEN THE ASTONISHING WEALTH OF THESE CORPORATIONS.

How current law works and where an updating clarification is needed.

California law already prohibits both every person and every corporation from engaging in hate crimes, harassment, and intimidation aimed at frightening people out of exercising their legal rights.¹⁸ California law already prohibits every person and corporation from aiding, abetting, conspiring, or jointly harming people in violation of these laws. It is urgent to update and clarify the application of these pre-Internet laws to ensure they meet the challenges of the modern era. A hypothetical explains why.

Imagine if, before the Internet, a person created flyers credibly warning Jews they would be murdered if they stepped out of their homes on election day to vote. Imagine that person handed the flyers to a friend to research where the Jews lived and, based on that research, deliver the flyers. Certainly, there is a possibility that both the flyer-creator and the researching and delivering friend could be liable for a violation of (for example) Civil Code section 52.1.

Now imagine the same anti-Semitic person uploading the same flyer's credible-threat content to a social media platform where the platform steps into the role of being trusted to deliver the murderous threat to those who, based on research and data, may in fact be actually terrorized out of voting. Here, too, there should clearly be *at least a possibility*, depending upon the specific facts, that the delivering platform could, no less than the delivering friend, be liable for a violation of (for example) Civil Code section 52.1.

How SB 711 works and two critical parts.

Simply but definitively clarifying the possible applicability of these laws to social media platforms without waiting for a decade of litigation has become an urgent cause; one met by SB 771. SB 771 would simply:

¹⁷ <https://lacounty.gov/2024/12/11/highest-total-of-hate-crimes-ever-reported/>

¹⁸ See sections 31 and 422.6 of the Penal Code and sections 51.7, 51.9, 52, or 52.1 of the Civil Code.

1. Clarify the potential applicability of current law to the circumstances by which a platform ensures targeted populations are actually hit by the content generally and uploaded, and
2. If a platform is found to have violated these laws, increase the financial consequences proportional to the life-and-death stakes and to a level that will not likely be viewed by them as an easily absorbable, tiny cost of doing business.

Accomplishing number 2 no small task for this Legislature when it comes to Meta. It is one of the most stubbornly persistent bad actors in corporate history. Its founder earned \$29 *billion in a single day*¹⁹ and, according to the FTC, even a record-fine of \$5 *billion* was not enough to prompt Meta to obey the terms of a privacy settlement.²⁰ Think General Motors is a vast corporation? GM's annual gross revenue for 2024 was \$23.40 billion. Meta's was \$134.34 billion.

But, it isn't just the money that Meta will consider in weighing whether the law will actually be enforced against it in merited cases. Analyzing the law from the point of view of a victim's lawyer or a public prosecutor, Meta will ask, is the law clear enough so that someone will actually risk suing me under it, when I can bring to the suit an unlimited number of the world's best lawyers?

For this reason, these two parts of the bill are at least as critical to it having any hope of success in prompting responsible conduct as the earnings-proportional penalties:

(b) (1) For purposes of this section, deploying an artificial intelligence or algorithm that relays content to users may be considered to be an act of the platform independent from the message of the content relayed.

(2) A platform shall be deemed to have actual knowledge of the operations of its own artificial intelligence and algorithms, including how and under what circumstances its artificial intelligence and algorithms deliver content to some users but not to others.

Not only are both critical, they are both true. The Senate Judiciary analysis (at p. 14) confirms the truth of the first declaration. ("This bill does not alter the law on when, or how, a social media platform—or any other party—could be held criminally or civilly liable for a crime or tort committed by a user. To the extent *Moody* created a space in Section 230 for a social media platform to be liable for its own arrangement and recommendation of speech, it is a narrow one, and this bill does not change that balance.")

¹⁹ <https://www.mercurynews.com/2024/02/02/mark-zuckerberg-made-29-billion-this-morning-after-meta-stock-makes-record-surge/>

²⁰ "**FTC Proposes Blanket Prohibition Preventing Facebook from Monetizing Youth Data** The Federal Trade Commission proposed changes to the agency's 2020 privacy order with Facebook after alleging that the company has failed to fully comply with the order, misled parents about their ability to control with whom their children communicated through its Messenger Kids app, and misrepresented the access it provided some app developers to private user data. "Facebook has repeatedly violated its privacy promises," said Samuel Levine, Director of the FTC's Bureau of Consumer Protection. "The company's recklessness has put young users at risk, and Facebook needs to answer for its failures." ... This is the third time the FTC has taken action against Facebook for allegedly failing to protect users' privacy. The Commission first filed a complaint against Facebook in 2011, and secured an order in 2012 barring the company from misrepresenting its privacy practices. But according to a subsequent complaint filed by the Commission, Facebook violated the first FTC order within months of it being finalized – engaging in misrepresentations that helped fuel the Cambridge Analytica scandal. In 2019, Facebook agreed to a *second* order—which took effect in 2020—resolving claims that it violated the FTC's first order. Today's action alleges that Facebook has violated the 2020 order, as well as the Children's Online Privacy Protection Act Rule (COPPA Rule). The 2020 privacy order required Facebook to pay a \$5 billion fine penalty." <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data>

As for the second, the inventor and user of a machine is of course properly deemed to know how its own invented and machines work and that is especially true with a company of the size and sophistication as Meta.

CONCLUSION.

One of the world's largest corporations controlled by the world's second wealthiest person (\$232 billion) has, with perfect self-awareness, imperiled the lives and rights of the most vulnerable of all Californians. How California, to borrow the Governor's phrase, "meets" this "moment" will properly determine how we are judged by history. SB 771 is a good step toward ensuring the judgment is a positive one.

Sincerely,



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