



CHILDREN'S ADVOCACY INSTITUTE



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



EXECUTIVE BOARD



Rainbow Spaces



**SIMON
WIESENTHAL
CENTER**



July 15, 2025

The Honorable Buffy Wicks
Chair, Assembly Appropriations Committee
Hon. Committee Members
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: SUPPORT AND CO-SPONSORSHIP FOR SB 771 (STERN): “[SB 771] ensures that platforms are held to the same standard as any other business entity that plays an active role in violating statutory rights.”¹

Dear Chair Wicks and Honorable Committee Members:

The Children's Advocacy Institute at the University of San Diego School of Law, the Simon Wiesenthal Center, the Consumer Federation of California, Jewish Family and Children's Services of San Francisco, Jewish Public Affairs Committee of California, 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.

¹ Assembly Judiciary Committee analysis, at p. 7.

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”**³ 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.”**⁴ 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.⁵

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.”**⁶ **“Numerous Instagram users on Tuesday had reported**

² <https://theintercept.com/2025/01/09/facebook-instagram-meta-hate-speech-content-moderation/>

³ <https://www.cnn.com/2025/01/07/tech/meta-hateful-conduct-policy-update-fact-check/index.html>

⁴ <https://theintercept.com/2025/01/09/facebook-instagram-meta-hate-speech-content-moderation/>

⁵ <https://www.oversightboard.com/decision/bun-lj939ea3/> <https://www.oversightboard.com/decision/bun-lj939ea3/>

⁶ <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.”⁷

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.”⁸ 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.⁹

As Amnesty International observed in response to Meta’s recent 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.”¹⁰

Apart from genocide, other experts have documented cause-and-effect relationships between social media practices and teen and gang violence¹¹ and teen – especially teen girl¹² – suicide.¹³

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."¹⁴

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."¹⁵

⁷ <https://www.cnn.com/2025/02/27/tech/meta-apologizes-glitch-violent-reels/index.html>

⁸ <https://theintercept.com/2025/01/09/facebook-instagram-meta-hate-speech-content-moderation/>

⁹ <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/>

¹⁰ <https://www.amnesty.org/en/latest/news/2025/02/meta-new-policy-changes/>

¹¹ <https://www.propublica.org/article/social-media-violence-young-americans>

¹² <https://news.byu.edu/intellect/10-year-byu-study-shows-elevated-suicide-risk-from-excess-social-media-time-for-young-teen-girls>

¹³ <https://www.bloomberg.com/news/features/2023-04-20/tiktok-effects-on-mental-health-in-focus-after-teen-suicide>

¹⁴ <https://www.npr.org/2022/07/13/1111113396/glaad-social-media-report-lgbtq-online-harassment>

¹⁵ *Ibid.*

It isn't just Meta. 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.¹⁶

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

Meta's change and the "deep cuts made to trust and safety departments" 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.¹⁷ 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.

¹⁶ <https://www.nbcnews.com/tech/tech-news/big-tech-companies-reveal-trust-safety-cuts-disclosures-senate-judicia-rcna145435>

¹⁷ <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.¹⁸

WHAT SB 771 DOES AND DOES NOT DO.

Imagine if, before the Internet, a person created flyers credibly warning LGBTQ+ residents 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 neighboring LGBTQ+ residents lived and, based on that research, deliver the flyers.

Now imagine the same homophobe uploading the same flyer’s credible-threat 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 the platform’s own 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 California statutes already applicable to corporations that protect Californians against such intimidation and credible threats.

That’s SB 711. The Assembly Judiciary analysis which does a superb job of explaining SB 771, both what it does and what it does not do. We quote from that analysis, below.

What SB 771 Does.

“[SB 771] ensures that platforms are held to the same standard as any other business entity that plays an active role in violating statutory rights.”¹⁹

“The Limits of SB 771. ... What [SB 771] does [] is impose enhanced civil penalties on a narrow class of very large social media platforms when—and only when—they materially contribute to the violation of difficult-to-prove civil rights statutes like the Ralph Act (Section 51.7), Civil Code Section 51.9, or the Bane Act (Section 52.1). **These are not speculative harms or vague grievances. They are statutory violations that already carry civil remedies and require plaintiffs to satisfy exacting standards,** such as proving threats of violence motivated by bias, coercive interference with legal rights, or harassment within a business relationship tied to protected characteristics. ...

¹⁸ <https://lacounty.gov/2024/12/11/highest-total-of-hate-crimes-ever-reported/>

¹⁹ Assembly Judiciary Committee analysis, at p. 7.

[SB 771] adjusts the consequences when the existing standard is already met and when the defendant is a large platform with extraordinary reach and influence. [SB 771 reflects] a legislative judgment that scale matters: that when a platform has the power to inflict widespread harm, it should bear commensurate responsibility when it fails to prevent foreseeable injury.”²⁰

When the Judiciary analysis refers to the “consequences,” it is referring to the civil penalties in the bill applicable only to the most wealthiest social media platforms. SB 771 imposes upon such platforms the following civil penalties for violating the enumerated civil rights laws:

- For an intentional, knowing, or willful violation, a civil penalty of up to one million dollars (\$1,000,000).
- For a reckless violation, a civil penalty of up to five hundred thousand dollars (\$500,000).
- If the evidence demonstrates that the platform knew, or should have known, that the plaintiff was a minor, the court may award up to twice the penalties described above.

These amounts were dramatically reduced by the Senate Appropriations Committee. Respectfully, if the Legislature is serious about passing laws that financially motivate the wealthiest corporations in history owned by the wealthiest people in history to obey them, the penalties for disobeying the law must be greater than the profits to be earned from disobeying them.

Accomplishing that is no small task for this Legislature when it comes to Meta. It is both one of the most stubbornly persistent bad actors in corporate history and draped in unimaginable wealth. Its founder earned \$29 *billion in a single day*²¹ 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.²² 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 easily afford to bring to the suit an unlimited number of the world’s best lawyers?

²⁰ Assembly Judiciary Committee analysis, at p. 6. (Emphasis added).

²¹ <https://www.mercurynews.com/2024/02/02/mark-zuckerberg-made-29-billion-this-morning-after-meta-stock-makes-record-surge/>

²² “**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 civil penalty.” <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data>

For this reason, the following 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 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 algorithms, including how and under what circumstances its algorithms deliver content to some users but not to others.

Not only are both of these clarifying provisions critical to whether anyone will dare sue these titanic corporations, they are both indisputably 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.”)

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.

What SB 771 Does Not Do.

“Critically, SB 771 does not expand the substantive scope of these civil rights laws, nor does it create liability for speech that is merely offensive or hateful. Hate speech alone—however disturbing—is not actionable under California law unless it satisfies the specific statutory requirements of one of the enumerated provisions.”²³

“This bill does not change the legal definition of hate speech, does not impose viewpoint-based restrictions, and does not subject platforms to liability for protected expression. It imposes liability only when a platform’s own conduct—its algorithmic design, content delivery practices, or engagement systems—materially contributes to unlawful acts as defined under California’s civil rights laws.”²⁴

“Opposition’s argument that SB 771 infringes upon the First Amendment rights of social media platforms misstates both what the bill does and what the Constitution protects. SB 771 does not regulate editorial judgment, compel platforms to carry speech, or prohibit the removal of any content. It does not impose viewpoint-based burdens or interfere with platform decisions to curate or remove content consistent with their terms of service. Instead, it imposes liability where a platform’s own algorithmic conduct contributes to violations of longstanding civil rights statutes—including the Ralph Act and the Bane Act—by amplifying content that results in discrimination, harassment, or coercive interference with protected rights. The theory of liability is grounded not in the substance of the user content, but in the platform’s own conduct in delivering it.

²³ Assembly Judiciary Committee analysis, at p. 6.

²⁴ *Ibid.*, at p.7.

To the extent opponents cite *NetChoice v. Paxton* (2024) 144 S.Ct. 2383, that case is not on point. There, the Court addressed facial challenges to laws that restricted content moderation and compelled platforms to carry speech. SB 771 does neither. It imposes liability not for failing to remove content, but for amplifying content in a way that foreseeably contributes to unlawful conduct under state law. And therefore, if a platform’s conduct is sufficient to violate (or aid and abet in the violation of) one of California’s long-standing civil rights statutes—none of which penalize speech alone—the likelihood of that conduct violating the First Amendment is no greater than the likelihood that California’s civil rights laws themselves violate the First Amendment.”²⁵

“Opponents also overstate the preemptive scope of Section 230. The statute bars treating a platform as the “publisher or speaker” of content created by another. It does not immunize platforms that materially contribute to unlawful conduct or develop systems that intentionally amplify it. Nor does it preempt state civil rights statutes simply because an algorithm was involved. The opposition’s reliance on the Supreme Court’s decision in *Twitter, Inc. v. Taamneh* (2023) 143 S.Ct. 1206—which does not discuss Section 230 at all—confirms that platforms are not liable merely for failing to remove harmful content. But it also leaves open the door to liability where a platform’s own design choices play a causal role in facilitating harm—which is precisely the conduct SB 771 seeks to capture.”²⁶

CONCLUSION.

One of the world’s largest corporations controlled by the world’s second wealthiest person (\$232 billion²⁷) has, with perfect self-awareness, imperiled the lives and rights of the most vulnerable of all Californians. How California, to borrow the Governor’s apt phrase, “meets” this “moment” will properly determine how we are judged by history. SB 771, which has enjoyed bi-partisan support, is a good step toward ensuring the judgment is a positive one.

Sincerely,



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²⁵ *Ibid.*, at p. 11, bold in the original.

²⁶ *Ibid.*

²⁷ “Just” \$200 billion at 3% compounding interest means Mr. Zuckerberg passively earns over \$600,000 an hour.

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