

AB 392 – Protect Act

SUMMARY

AB 392 would prohibit an adult website from allowing sexually explicit material to be uploaded to its website unless the uploader signs a statement, under penalty of perjury, that individuals depicted within the media are of at least 18 years of age and that they consented to the sexually explicit content being recorded and uploaded to the internet.

BACKGROUND AND ISSUE

California has introduced a number of measures which tackle the uploading of non-consensual media and the creation of deep fake or AI generated sexually explicit media of both adults and minors. Examples of recent legislation in this space have criminalized the generation of AI deep fake pornography (SB 926, 2024), increased sentencing for the non-consensual recording and distribution of explicit media (AB 1962, 2024), and the addition of mechanisms to tackle explicit media related to minors (AB 1831, 2024).

Despite the positive steps taken by the legislature to enact stronger regulations and penalties for those who upload non-consensual media, deep fakes, and AI generated sexually explicit images of both adults and minors, these measures have not addressed the core issue of identifying the uploader and holding the websites which host such media accountable and responsible.

SOLUTION

AB 392 would provide a number of necessary protections and requirements prior to the uploading of sexually explicit media, including that the uploader of such media sign a statement, under penalty of perjury, that any individual depicted in the sexually explicit content was not a minor at the time the content was created, consented to being depicted in the content, and consents to the sexually explicit content being uploaded to the internet.

Furthermore, should a pornographic internet website receive a complaint that the depicted individual did not consent to either the media

being recorded or uploaded, or was a minor at the time, the website would now be required to remove the media within 48 hours.

AB 392 also empowers a depicted individual who suffered harm as a result of the uploaded sexually explicit content to bring a civil action against the operator and the user who uploaded the media without their consent.

In our hyper-technological age, it is extremely easy for individuals to publish nonconsensual sexually explicit materials online. One in 12 people are a victim of image-based sexual abuse and anyone can become the next victim. AB 392 is a barrier to block abuse from happening in the first place and affords victims with the opportunity to pursue crucial legal recourse to hold both websites and the uploaders accountable.

SIMILAR LEGISLATION

AB 1831 (Berman, 2024) - Child pornography - Chaptered

SB 558 (Rubio, 2023) - Childhood sexual abuse - Chaptered

SB 1081 (Rubio, 2022) - Peeping, recording, and distribution of intimate images - Chaptered

AB 514 (Ward, 2021) - Distribution of sexually explicit materials - Chaptered

SB 23 (Rubio, 2021) - Distribution of intimate images - Chaptered

SUPPORT

Foundation Ra (Sponsor)

OPPOSITION

None on File.

FOR MORE INFORMATION

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