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April 9, 2026

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

Re: SUPPORT AND SPONSOSHIP OF AB 1946 (WICKS AND KRELL)

Dear Chair Bauer-Kahan and Honorable Committee Members:

The Children's Advocacy Institute at the University of San Diego School of Law, which for 30 years has worked to improve the well-being of children in California is pleased to support AB 1946 (Wicks and Krell).

AB 1946 does two things:

- It aligns several recently-passed California laws requiring social media platforms to take reports about content harmful to children and the federal Take it Down Act addressing child sexual abuse material on platforms.

- In response to uncontradicted reports that social media platforms are either openly not complying with aspects of the state laws or openly exploiting gaps in them, to the detriment of children and this Legislature's aims, AB 1946 clarifies existing standards and enhances consequences for non-compliance.

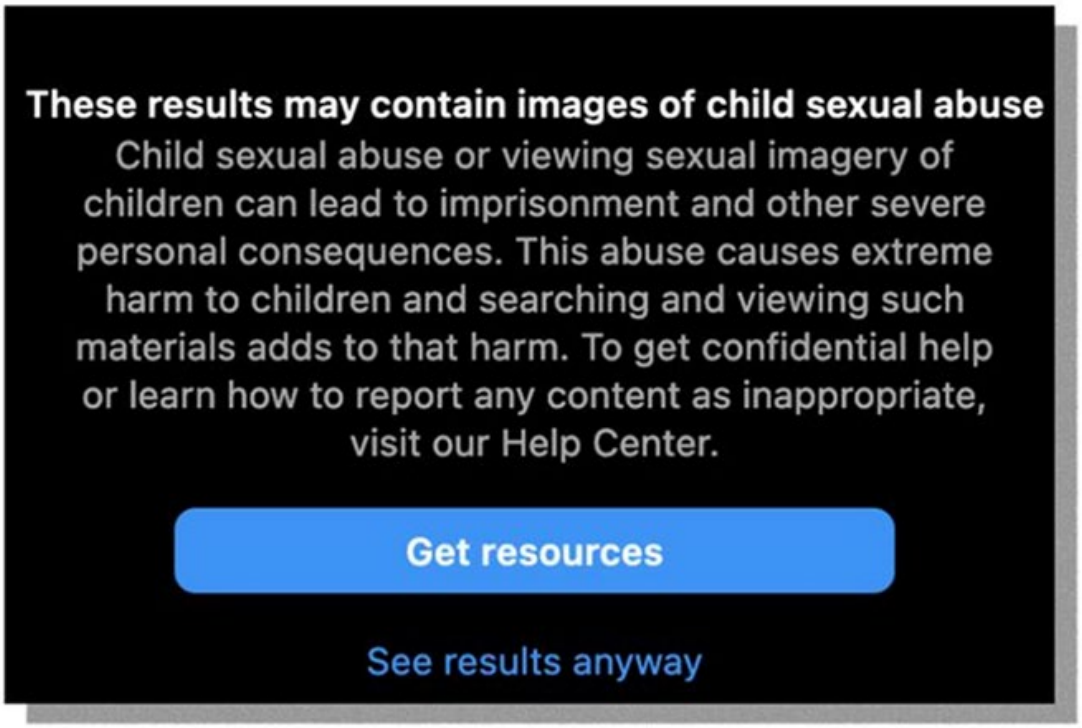
BACKGROUND

AB 1394 (2023). In 2023, the Governor signed the landmark AB 1394 (Wicks and Flora), a law aimed at compassionately aimed at protecting sexually brutalized and exploited children from social media abuses.

AB 1394 was prompted by the well-documented role social media platforms play in helpfully and indispensably ensuring (i) that images and videos of child rape and sex abuse (CSAM) randomly uploaded by third-party criminals are efficiently delivered to eager pedophiles even when they don't search for it and (ii) that criminal sex traffickers who profit from child rape are efficiently and inexpensively matched with pedophile customers.

Let's please be clear. Platforms know how to find and block such content. They elect not to. Consider two examples.

Example 1: "See results anyway"



On June 7, 2023, *The Wall Street Journal* published an investigative report titled "Instagram Connects Vast Pedophile Network." The story documented how a mere three academics at Stanford University and the University of Massachusetts Amherst working part time with only the public's access to Instagram were easily able to find the following:

- "[T]he sexualized accounts on Instagram are brazen about their interest."
- "Some menus include prices for videos of children harming themselves and 'imagery of *the minor performing sexual acts with animals*'"
- "The researchers found that Instagram enabled people to search explicit hashtags such as #pedowhore and #preteensex and connected them to accounts that used the terms to advertise child-sex material for sale."
- ""Since receiving the *Journal* queries" – again, queries that were based on research done from publicly available sites by just three academics – "the platform said it has blocked thousands of hashtags that sexualize children, some with millions of posts, and restricted its systems from recommending users search for terms known to be associated with sex abuse."

- As *The Journal* documented, even when Facebook identified sex abuse content, it knowingly permitted users to "See results anyway".

- The *Journal*'s conclusion: **"Instagram doesn't merely host these activities. Its algorithms promote them. Instagram connects pedophiles and guides them to content sellers via recommendation systems that excel at linking those who share niche interests[.]"**[1]

Example 2: Previously secret facts obtained through lawsuits

- ***"He solicited a child on Facebook, even after Meta banned him."*** Headline from a *Washington Post* article detailing an undercover investigation conducted by authorities in New Mexico that found -- among other horrors – that "after one of the state's undercover personas was shut down, investigators were able to open a new one with the same name and date of birth within five minutes by adopting a new username and phone number."[2]

- ***An astonishing sixteen free passes for sex trafficking:*** Meta had a "17x" strike policy for accounts engaged in the "trafficking of humans for sex."…"That means that you could **incur 16 violations for prostitution and sexual solicitation**, and upon the 17th violation, your account would be suspended."
  - Vaishnavi Jayakumar, Instagram's then-new Head of Safety and Wellbeing, testimony and Meta's internal documentation confirmed.[3]

- **"The product is very good at connecting people with interests, and if your interest is little girls, it will be really good at connecting you with little girls."**

  - Arturo Béjar, a former Meta engineer, testified in the trial about how his own 14-year-old daughter received unwanted advances after creating a public Instagram page.[4]

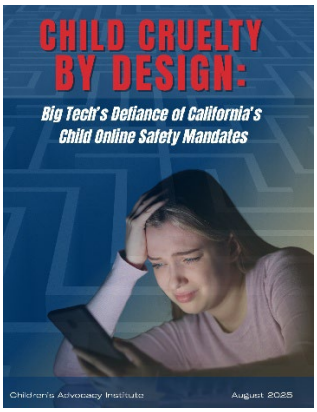
- **"Too much work" to help sex trafficking survivors:** "When Instagram's then-new Head of Safety and Wellbeing, learned that the app had no in-app reporting tool for CEI [Child Exploitation Imagery], she said 'it was very surprising to me,' '[b]ecause reporting CEI [Child Exploitation Imagery] is sort of baked into most platforms.'… Ms. Jayakumar raised this issue 'multiple times,'… but was told that it would be too much work to build and, if Meta did so, it would be forced to review any reports that came in through that channel, meaning even more work."
  - Statements made by Vaishnavi Jayakumar, Instagram's then-new Head of Safety and Wellbeing. [5]

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[1] https://www.wsj.com/articles/instagram-vast-pedophile-network-4ab7189 -- italics added
[2] Annah Aschbrenner, *He Solicited a Child on Facebook, Even After Meta Banned Him*, WASH. POST (Feb. 19, 2026), https://www.washingtonpost.com/technology/2026/02/19/meta-facebook-child-solicitation/. (Hereinafter Washington Post)
[3] In re Soc. Media Adolescent Addiction/Pers. Injury Prods. Liab. Litig., No. 4:22-md-03047-YGR (N.D. Cal. filed Nov. 21, 2025) at 61-62 (Pls.' Omnibus Opp'n to Defs.' Mots. for Summ. J.). (citing Ex. 2B at 459:9-23 & Ex. 199 at 7242) (Hereinafter MDL).
[4] *Ibid.* Washington Post
[5] *Ibid.* MDL at 60-61 (citing Ex. 2A at 275:23- 276:2; Ex. 2A at 276:7-8 & Ex. 2A at 275:4-276:15)

- **Meta deliberately buried its child exploitation reporting tool, and 99% of those who tried to report never made it through.** Only 1% of those who tried to report were able to do so: "It [Meta] made its reporting flow [the step-by-step in-app reporting pathway a user must click through to submit a report of Child Exploitation Imagery and Child Sexual Abuse Material] intentionally complicated, to reduce the reports it had to look at…'only 1 percent' of people who have bad experiences on Instagram 'finished submitting feedback through the reporting tool.'"
  - *Testimony of Vaishnavi Jayakumar, Instagram's then-new Head of Safety and Wellbeing*. [6]

<u>*CRUELTY BY DESIGN* STUDY AFFIRMS THESE FACTS AND EXHAUSTIVELY DOCUMENTS HOW CURRENT LAW IS BEING EVADED.</u>



Given a full year's delayed effective date to comply and notwithstanding soaring profits[7], social media platforms have elected to respond to AB 1394 and SB 1504 law by engaging in performative and fine-print "compliance" or by exploiting ambiguities to do nothing at all. From the summary of the *Cruelty By Design* report:

"This report by the Children's Advocacy Institute evaluates how major social media platforms have responded to California's AB 1394 and SB 1504—two landmark laws aimed at protecting children from online sexual exploitation and cyberbullying. AB 1394 requires platforms to establish "reasonably accessible" mechanisms for reporting child sexual abuse material (CSAM), while SB 1504 mandates "prominent" pathways for reporting cyberbullying. These laws reflect California's bipartisan demand for greater accountability from platforms whose business models have demonstrably harmed youth.

The evaluation covers four major platforms—Instagram, Facebook, Snapchat, and TikTok—and measures their compliance through hands-on testing of their in-app reporting systems on mobile devices. …

Key findings include:

[6] *Id* at 61 (citing Ex. Ex. 168A at 163:16-166:4, 161:10-22)
[7] In 2024, Meta Platforms generated a revenue of over 164 billion U.S. dollars, up from 134 billion USD in 2023. https://www.statista.com/statistics/277229/facebooks-annual-revenue-and-net-income/#:~:text=In%202024%2C%20Meta%20Platforms%20generated,to%20114%20billion%20U.S.%20dollars.

- Buried and misleading reporting tools: Reporting pathways are often hidden behind multiple menus, vague terminology, and unclear steps—requiring 5 to 7 clicks or more.
- Confusing language: Platforms use euphemisms like "nudes" instead of more precise and understandable terms, creating confusion and deterring reporting.
- No legal transparency: None of the reporting systems clearly inform users of their rights under California law or the platforms' obligations to respond.
- Designs that retraumatize: Young survivors must navigate confusing interfaces, contradictory instructions, and character-limited text fields while seeking help—experiences that compound trauma rather than alleviate it.

The report concludes that the failures documented are not due to technological limitations or oversight. These corporations—some of the most profitable and technologically advanced in the world—have deliberately chosen profit over protection. Their actions, or inactions, defy the intent of the law and disrespect both the California Legislature and the vulnerable children these laws were designed to protect."[8]

WHO IS HURT BY ALL THIS -- CHILD SEXUAL EXPLOITATION, A HORRIFYING WORLD.

The average age of child sex trafficking victims is 13–14.[9] These are not children passing for being 18-plus years of age. To our collective shame, in the U.S., 60% of domestic child trafficking victims have a history in the child welfare system.[10]

Keeping these children away from their exploiters is a life-and-death matter for them as "***the average life expectancy of an exploited child is a shockingly short time: seven years.*** Homicide and HIV/AIDS account for a majority of the deaths."[11]

Girls of color are especially at-risk. "According to the FBI, 57.5% of all juvenile prostitution arrests are Black children." And, "[c]ompared to their racial counterparts, Black girls are more likely to be trafficked at a younger age."[12] So, too, are our queer youth uniquely at-risk. "Nearly 1 in 3 LGBTQ+ minors (32%) reported an online sexual encounter with someone they believed to be over 18, ten percentage points higher than their non-LGBTQ+ peers (22%)."[13]

Child sexual abuse (including trafficking) takes a terrible toll on a child's overall health, increasing the risk not only for the expected depression, anxiety, substance abuse, post-traumatic stress

[8] https://catcher.sandiego.edu/items/usdlaw/08112025-Child_Cruelty_By_Design_Report.pdf
[9] *Facts &* Figures, YOUTH UNDERGROUND, https://youth-underground.com/facts-figures/ (last visited Nov. 19, 2022).
[10] *Child Sex Trafficking*, CHILDREN'S RIGHTS, https://www.childrensrights.org/newsroom/fact-sheets/child-sex-trafficking/#:~:text=The%20average%20age%20of%20child%20sex%20trafficking%20victims%20is%2015,were%20sexually%20abused%20as%20children (last visited March 17, 2022).
[11] Kate Walker, *Ending The Commercial Sexual Exploitation of Children: A Call For Multi-System Collaboration in California*, CALIFORNIA CHILD WELFARE COUNCIL (2013) at 15, https://www.chhs.ca.gov/wp-content/uploads/2017/06/Committees/California-Child-Welfare-Council/Council-Information-Reports/Ending-CSEC-A-Call-for-Multi-System-Collaboration-in-CA-February-2013.pdf.
[12] https://www.cbcfinc.org/wp-content/uploads/2020/05/SexTraffickingReport3.pdf.
[13] https://info.thorn.org/hubfs/Research/Responding%20to%20Online%20Threats_2021-Full-Report.pdf at p. 11.

disorder, and suicidal ideation, but also for enduring diseases like high blood pressure and other chronic illness.[14]

Part of the reason for the endurance of their trauma is that for survivors, the abuse never really ends because, "[o]nce an image [of their abuse] is on the Internet, they are irretrievable and can continue to circulate forever." The child is re-victimized as the images are viewed again and again.[15]

This is made worse because criminals often purposefully produce material where children are seen smiling, leading survivors to worry that others will assume their enjoyment or implicate them in the abuse. Survivors report that perhaps the most difficult part of their re-victimization is a victims' knowledge that their images may be used to groom future victims as a way to normalize the abusive behavior.[16]

It is challenging in a public document to describe how horrifying these videos and images can be.

> Most members of the public will never see [child sexual abuse material] … The images and videos that are reported are not merely sexually suggestive or older teenagers who "look young." **This content depicts crime scene activity. Children — including those who are too young to call for help — are raped, abused, and exploited in this imagery.** … **They are revictimized every time a sexually abusive image or video in which they are depicted is traded online and a new predator takes personal gratification in their anguish or uses the imagery to entice another child into sexual abuse**.[17]

IT IS GETTING WORSE

As Republican U.S. Senator and Chair of the Senate's Judiciary Committee Charles Grassley observed in February:

> [T]he problem is getting worse. In 2023, for instance, the NCMEC CyberTipline received 36.2 million reports of suspected online child sexual exploitation, a 12% increase over 2022. And even though the numbers haven't been published for 2024, I hear they're only expected to go up.

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[14] See CENTERS FOR DISEASE CONTROL AND PREVENTION, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL, DIVISION OF VIOLENCE PREVENTION, PREVENTING SEXUAL VIOLENCE (last reviewed by the CDC on Jan. 17, 2020), available at https://www.cdc.gov/violenceprevention/sexualviolence/fastfact.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fviolenceprevention%2Fse xualviolenc e%2Fconsequences.html. The paradigm shift from tangible to digital CSAM has exacerbated these effects. Von Weiler, J., Haardt-Becker, A., & Schulte, S. Care and treatment of child victims of child pornographic exploitation (CPE) in Germany, 16 J. OF SEXUAL AGGRESSION 211, 216 (2010).

[15] https://www.justice.gov/criminal-ceos/child-pornographySadly, these feelings usually persist and even intensify over time over time. U.S. DEP'T OF JUSTICE, THE NATIONAL STRATEGY FOR CHILD EXPLOITATION AND PREVENTION AND INTERDICTION, 11 at D-12 (2010), available at http://www.justice.gov/psc/docs/natstrategyreport.pdf (finding that almost ninety-five percent of CSAM victims suffer lifelong psychological damage and may never overcome the harm, even after lifelong therapy). The problem has taken on a new dimension as CSAM involves increasingly younger victims and is becoming more violent and graphic over time.

[16] PALMER, T. & STACEY, L., JUST ONE CLICK: SEXUAL ABUSE OF CHILDREN AND YOUNG PEOPLE THROUGH THE INTERNET AND MOBILE PHONE TECHNOLOGY (Barkingside, UK: Barnardo's, 2013); *United States v. Williams* (11th Cir.2006) 444 F.3d 1286, 1290 ("Our concern is not confined to the immediate abuse of the children depicted in these images but is also to enlargement of the market and the universe of this deviant conduct that, in turn, results in more exploitation and abuse of children.").

[17] https://www.missingkids.org/content/dam/missingkids/pdfs/Senate%20Judiciary%20Hearing%20-%20NCMEC%20Written%20Testimony%20(2-14-23)%20(final).pdf, at pp. 2–3 (emphasis added).

> Additionally alarming are the new technologies that are being used by bad actors to exploit children online. Predators can use Generative AI, for instance, to take normal images of children and manipulate them to create novel forms of CSAM. In 2024 alone, NCMEC reported over 60,890 instances of Generative AI CSAM.[18]

And, when talking about how Big Tech lobbies Congress, his observations may sound familiar to you and your colleagues:

> And tech platforms have been unhelpful in our legislative efforts. Big Tech promises to collaborate, but they're noticeably silent in supporting legislation that would effect meaningful change. **In fact, Big Tech's lobbyists swarm the Hill, armed with red herrings and scare tactics, suggesting that we'll somehow break the Internet if we implement even modest reforms.**
>
> **Meanwhile, these tech platforms generate revenues that dwarf the economies of most nations. How do they make so much money? By compromising our data and privacy, and by keeping our children's eyes glued to the screens through addictive algorithms.[19]**

As INHOPE's 2024 annual report documents:

> In 2024, 93.24% of CSAM victims were pre-pubescent (ages 3-13), up from 90% in 2023, continuing to represent the vast majority of cases. …[20]
>
> The overall number of online records observed by the INHOPE network in 2024 is unprecedented, reaching record numbers that have never been seen before in the 20 years since INHOPE started to collect and publish data.[21]

CONCLUSION

We should not need to pass laws to compel platforms to do any of this. Any business behaving with even a molecule of morality would not evade their obligations to aid suffering, sexually abused children.

And yet, here we are – again. That we must resort to bills like this one tells you everything you need to know about why AB 1946 is necessary to protect our most horribly exploited children from just a handful of unimaginably wealthy corporations that could do far more to help them, but don't.

Sincerely,

Ed Howard
Senior Counsel, Children's Advocacy Institute

[18] https://www.judiciary.senate.gov/press/rep/releases/grassley-opening-statement-on-ensuring-childrens-safety-in-the-digital-era
[19] Id.
[20] INHOPE 2024 Annual Report, at p. 16.
[21] Id. at p. 10.