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July 11, 2026

Hon. Sabrina Cervantes
Chair, Senate Appropriations Committee
Hon. Committee Members
1020 N Street, Room 104
Sacramento, CA 95817

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

Dear Chair 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).

Meta's former head of Safety and Wellbeing testified that Meta deliberately buried its sex 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 sex 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.'"[1]

Indeed,

- Uncontradicted reports document that social media platforms are either brazenly violating key laws enacted by this Legislature to aid children remove videos and images of them being raped and sexually abused or are brazenly exploiting gaps in those laws to avoid aiding them.

- Early analysis that the platforms are brazenly violating a new, similar federal law, too.

In light of these few corporations electing to persist in illegal or unethical practices that (i) have been proven to be vital in facilitating mass child rape for hire and (ii) needlessly cause anguish to children who are trying to remove photos or videos of them being raped or sexually exploited from the platforms , this bill is needed.

[1] *Statements made by Vaishnavi Jayakumar, Instagram's then-new Head of Safety and Wellbeing* In re Soc. Media Adolescent Addiction/Pers. Injury Prods. Liab. Litig., No. 4:22-md-03047-YGR (N.D. Cal. filed Nov. 21, 2025) Pls.' Omnibus Opp'n to Defs.' Mots. for Summ. J.. at 61 (citing Ex. Ex. 168A at 163:16-166:4, 161:10-22)

BACKGROUND: SOCIAL MEDIA PLATFORMS REFUSE TO HELP CHILDREN.

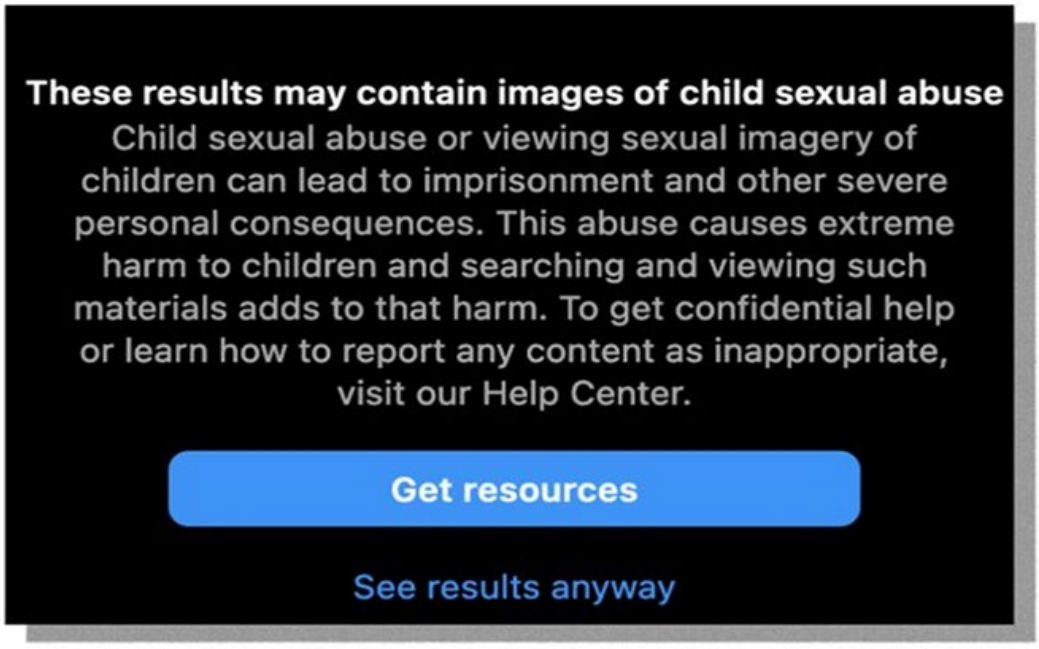
AB 1394 (2023). In 2023, the Governor signed the landmark AB 1394 (Wicks and Flora), a law aimed at compassionately aimed at protecting sexually brutalized and exploited children from social media abuses. (**Note regarding costs**: the Senate Appropriations Committee analysis of AB 1394 generally assigned no costs to it other than unspecified court cost pressure assuming, in part, there might be a facial challenge to the law. That did not occur even though the platforms were given a full year to comply with the law and prepare for a such a suit. Indeed, such a suit is unlikely against this measure for the same reasons a suit wasn't brought against current law: (i) suing to invalidate a law benefitting sexually trafficked children is the worst possible posture for the platforms to litigate their legal theories against such legislation and (ii) the discovery that would come to light detailing the how the platforms refuse to aid such children will hurt them in the courts elsewhere in other cases and the court of public opinion.)

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"

Meta knows how to find child sex abuse content. It has admitted as much:



Ever try to upload a copyrighted song to YouTube? The technology catches it. The technology exists for platforms to screen out this grotesque content. They elect not to.

Example 2: Social Media Knows Social Media Is Where Pedophiles Procure Children and Videos and Images. 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[.]"**[2]

Example 3: Previously secret facts obtained through lawsuits:

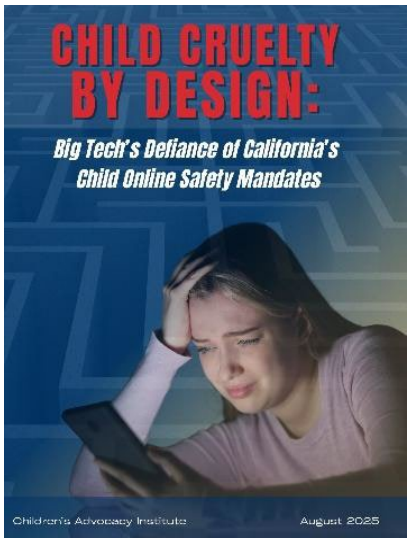
- ***"He solicited a child on Facebook, even after Meta banned him."*** Headline from a *Washington Post* article detailing an undercover investigation conducted by authorities in New Mexico that found - among other horrors – that "after one of the state's undercover personas was shut down, investigators 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."[3]
- ***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.[4]
- **"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."**

[2] https://www.wsj.com/articles/instagram-vast-pedophile-network-4ab7189 -- italics added
[3] 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)
[4] 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).

- 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.[5]

- **"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 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 NOT JUST AB 1394 IS BEING FLOUTED BUT TWO OTHER RECENT CHILD PROTECTING LAWS ARE, TOO.</u>



The testimony quoted at the outset of this letter from a former Meta safety official that Meta makes it purposefully for a child to report videos of them being raped or sexually abused is affirmed by CAI's recent comprehensive study.

This report by CAI 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:

[5] *Ibid.* Washington Post
[6] *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)

- 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 inaction, defy the intent of the law and disrespect both the California Legislature and the vulnerable children these laws were designed to protect.[7]

META ALSO APPEARS TO BE VIOLATING THE NEW “TAKE IT DOWN ACT”.

CAI is beginning to audit whether the major platforms are complying with the federal TAKE IT DOWN Act (Pub. L. 119–12 (signed May 19, 2025)), which became effective this year. (“TIDA”)

The TIDA imposes two core sets of obligations on covered platforms. Under Section 3(a)(1)(A), a covered platform must establish a process by which an identifiable individual (or authorized person) can notify the platform of a nonconsensual intimate visual depiction (NCIVD) — including AI-generated "digital forgeries" — and request its removal. Under Section 3(a)(2), the platform must provide a "clear and conspicuous notice" — or a clear and conspicuous link to another page — describing that process. The statute specifies that this notice must be *"easy to read and in plain language."*

Clear And Conspicuous Requirement Is Being Violated -- Facebook

The statute's most prominent requirement is that a covered platform provide a clear and conspicuous notice of its NCIVD notice-and-removal process. Facebook does not satisfy this requirement.

CAI auditors systematically navigated Facebook's primary user-facing interface on both desktop (Windows, Chrome) and mobile (iPhone, current app version). The standard reporting pathway — the three-dot options menu on a post — offers no category that is identifiable as a TIDA-compliant NCIVD report. On desktop, the menu presents nine options; on mobile, seven. None reference nonconsensual intimate images, digital forgeries, deepfakes, or the TAKE IT DOWN Act. The platform's grid navigation, left-hand sidebar, and contacts bar were also checked; none yielded a relevant pathway.

The Facebook Help Center (in app, mobile version) is not immediately accessible from the app's main navigation. On mobile, it is accessible only by scrolling nearly to the bottom of the "Help and Support" submenu, where it appears as the third option from the bottom. Once accessed, the Help Center routes users through Meta's AI support assistant. When queried with the terms "Take it Down," "Take it Down Act," "deepfake," "nonconsensual images," and "48 hours," the AI assistant returned no results related to the Act's requirements. When asked about the Take it Down Act specifically, the assistant responded by referencing

[7] https://catcher.sandiego.edu/items/usdlaw/08112025-Child_Cruelty_By_Design_Report.pdf

content legislation in Canada and Australia, and asked the user to clarify which country's law they were inquiring about — demonstrating that Facebook's own support infrastructure does not recognize the TAKE IT DOWN Act as applicable to Facebook. Searches for "deepfake" returned results about counterfeit goods, spam, and scams. Searches for "nonconsentual images" returned results about intellectual property and copyright.

Help Center (desktop) desktop search for "Take it down act" in Facebook's Help Center returned 48 results, none of which addressed TIDA obligations. The AI assistant's top response directed users to Facebook's general Community Standards and the Oversight Board. A search for "48 hours" returned 47 results; the AI's featured response concerned the expiration of Teen Account supervision invitations. A search for "deepfake" returned 50 results; the AI stated it "cannot provide information about 'Deepfake' based on the articles you provided" and suggested results about counterfeit goods and spam.

Facebook's Help Center includes a "Policies" section with dedicated compliance pages for several foreign legal regimes, including the Australia Online Safety Act, the UK Online Safety Act, Japan's Information Distribution Platform (Measurement) Act, and Taiwan's Tobacco Hazards Prevention Act. There is no analogous compliance page for the TAKE IT DOWN Act — a United States federal statute that took effect more than two weeks before this audit was conducted.

Community Standards — Adult Sexual Exploitation page: The deepest navigation reached during the desktop audit was the Meta Transparency Center's "Adult Sexual Exploitation" Community Standards page (transparency.meta.com/policies/community-standards/sexual-exploitation-adults). This page references AI-generated and nonconsensual imagery in its list of prohibited content, and contains hyperlinks to technology resources and reporting options. However, it is accessible only after navigating: Facebook → Transparency Center → Policies → Adult Sexual Exploitation. As well, this page is a policy statement, not a notice of the TAKE IT DOWN Act's requirements, and it does not reference the Act, the 48-hour removal obligation, or the specific intake elements required by §3(a)(1)(B).

A dedicated "Intimate Image Abuse and Sextortion" page apparently only exists on Meta's Safety Center at meta.com/safety/topics/bullying-harassment/ncii/. This page provides platform-specific reporting links, references AI-generated content in the context of the Take It Down (NCMEC) tool, and directs users over 18 to StopNCII.org and users under 18 to TakeItDown.NCMEC.org. The page includes a "Report on Facebook" link (facebook.com/help/189722821075378) and states that Meta's teams review reports "24/7 in more than 70 languages."

Several compliance problems remain, however, even taking this page at its best:

First, the page is located on a separate domain (meta.com/safety), not within the Facebook application or help.facebook.com where users navigating the platform would look. The audit documented that a user navigating Facebook's own help infrastructure — including the in-app Help Center, the AI support assistant, and keyword searches for the Act and its subject matter — cannot locate this page through normal use. A notice that exists on a separate website, reachable only if the user already knows where to look, does not satisfy the §3(a)(2) requirement that the notice be clear and conspicuous on the platform.

Second, the page does not reference the TAKE IT DOWN Act by name and does not describe the specific intake elements required by §3(a)(1)(B) or the 48-hour removal obligation required by §3(a)(3). The statement that teams review reports "24/7 in more than 70 languages" is a staffing representation, not a legally operative commitment to remove content within 48 hours of a valid request.

Third, during the desktop audit, links from the Community Standards page to privacy and reporting resources — which appear to be the pathway to this Safety Center infrastructure — consistently returned

blank (white) screens and failed to load on the Facebook platform, reverting users to a dead end. This failure was confirmed across multiple attempts and after verifying that the issue was not attributable to local network connectivity.

Audits of the other platforms is ongoing.

NOTE: These companies are among the world's foremost experts on user interfacing. They know how to make reporting easy if they want to.

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

The average age of child sex trafficking victims is 13–14.[8] 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.[9]

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."[10]

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."[11] 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%)."[12]

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 disorder, and suicidal ideation, but also for enduring diseases like high blood pressure and other chronic illness.[13]

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.[14]

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

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[8] *Facts &* Figures, YOUTH UNDERGROUND, https://youth-underground.com/facts-figures/ (last visited Nov. 19, 2022).
[9] *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).
[10] 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.
[11] https://www.cbcfinc.org/wp-content/uploads/2020/05/SexTraffickingReport3.pdf.
[12] https://info.thorn.org/hubfs/Research/Responding%20to%20Online%20Threats_2021-Full-Report.pdf at p. 11.
[13] 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).
[14] 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.

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.[15]

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**.[16]

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.
>
> 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.[17]

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.[18]**

As INHOPE's 2024 annual report documents:

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[15] 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.").

[16] 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).

[17] https://www.judiciary.senate.gov/press/rep/releases/grassley-opening-statement-on-ensuring-childrens-safety-in-the-digital-era

[18] Id.

> 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. …[19]
>
> 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.[20]

CONCLUSION

We should not need to pass laws to compel platforms to do any of this. Any business behaving with even a modicum of morality would not evade their obligations to aid suffering 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 who could do far more to help them, but would prefer to make slightly more money instead.

AB 1946 closes loopholes and strengthens enforcement. It has rightly enjoyed broad, bi-partisan support. It is a modest response to a great and glaring cruelty, done purposefully, in violation of the law, against children who have been raped and sexually abused.

Sincerely,



Ed Howard
Senior Counsel, Children's Advocacy Institute

[19] INHOPE 2024 Annual Report, at p. 16.

[20] Id. at p. 10.