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AB-621 Deepfake pornography. (2025-2026)

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Assembly Bill No. 621

CHAPTER 673

An act to amend Section 1708.86 of the Civil Code, relating to the internet.

[Approved by Governor October 13, 2025. Filed with Secretary of State October 13, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 621, Bauer-Kahan. Deepfake pornography.

Existing law grants to a depicted individual a cause of action against a person who creates and intentionally discloses sexually explicit material if the person knows, or reasonably should have known, that the depicted individual in that material did not consent to its creation or disclosure or who intentionally discloses sexually explicit material that the person did not create if the person knows the depicted individual in that material did not consent to the creation of the sexually explicit material. Existing law defines "sexually explicit material" for purposes of that provision to mean any portion of an audiovisual work that shows the depicted individual performing in the nude or appearing to engage in, or being subjected to, sexual conduct and defines "depicted individual" to mean an individual who appears, as a result of digitization, to be giving a performance the individual did not actually perform or to be performing in an altered depiction. Existing law authorizes a plaintiff to recover, among other relief, statutory damages of not less than \$1,500 but not more than \$30,000, or \$150,000 for a malicious violation, as prescribed.

This bill would revise and recast the provision described above to additionally grant to a depicted individual a cause of action against a person who knows, or reasonably should know, that the depicted individual was a minor when the digitized sexually explicit material was created and would additionally grant a cause of action to that depicted individual against a person who knowingly facilitates or recklessly aids or abets conduct prohibited by that provision. The bill would define "digitized sexually explicit material" to mean any portion of a visual or audiovisual work created or substantially altered through digitization, including an image, that shows the depicted individual in the nude or appearing to engage in, or being subjected to, sexual conduct.

This bill would make a person that provides a service that enables the ongoing operation of a deepfake pornography service presumed to be engaged in knowing facilitation or reckless aiding or abetting, as described above, if a depicted individual or public prosecutor provides the person with evidence sufficient to demonstrate that the person is providing services that enable the ongoing operation of a deepfake pornography service that engages in conduct described in the provisions described above, and the person fails to take all necessary steps to stop providing services that enable the ongoing operation of a deepfake pornography service within 30 days of receiving that evidence, as specified. This bill would increase the maximum statutory damages available to a depicted individual to \$50,000 if the violation was not malicious and \$250,000 for a malicious violation and would authorize certain public attorneys to bring a civil action to enforce these provisions, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1708.86 of the Civil Code is amended to read:

1708.86. (a) For purposes of this section:

(1) "Authorized representative" means an attorney, talent agent, or personal manager authorized to represent a depicted individual if the depicted individual is represented.

(2) (A) "Consent" means an agreement written in plain language signed knowingly and voluntarily by the depicted individual that includes a general description of the digitized sexually explicit material and the visual or audiovisual work in which it will be incorporated.

(B) A depicted individual may rescind consent by delivering written notice within three business days from the date consent was given to the person in whose favor consent was made, unless one of the following requirements is satisfied:

(i) The depicted individual is given at least 72 hours to review the terms of the agreement before signing it.

(ii) The depicted individual's authorized representative provides written approval of the signed agreement.

(3) "Deepfake pornography service" means an internet website, mobile application, or other service the primary purpose of which is to create digitized sexually explicit material.

(4) "Depicted individual" means an individual who is portrayed in sexually explicit material.

(5) "Despicable conduct" means conduct that is so vile, base, or contemptible that it would be looked down on and despised by a reasonable person.

(6) "Digitization" means a process by which any of the following are realistically depicted:

(A) The nude body parts of another human being as the nude body parts of the depicted individual.

(B) Computer-generated nude body parts as the nude body parts of the depicted individual.

(C) The depicted individual engaging in sexual conduct in which the depicted individual did not engage.

(7) "Digitized sexually explicit material" means any portion of a visual or audiovisual work created or substantially altered through digitization, including an image, that shows the depicted individual in the nude or appearing to engage in, or being subjected to, sexual conduct.

(8) "Disclose" means to publish, make available, or distribute to the public.

(9) "Individual" means a natural person.

(10) (A) "Malice" means an intent to cause harm to the depicted individual or to engage in despicable conduct with a willful and knowing disregard of the rights of the depicted individual.

(B) A person acts with knowing disregard within the meaning of this paragraph when the person is aware of the probable harmful consequences of their conduct and deliberately fails to avoid those consequences.

(11) "Nude" means visible genitals, pubic area, anus, or a female's postpubescent nipple or areola.

(12) "Person" means a natural person or legal entity.

(13) "Plaintiff" includes cross-plaintiff.

(14) "Public prosecutor" means the Attorney General, a city attorney, county counsel, district attorney, or any other city or county prosecutor.

(15) "Sexual conduct" means any of the following:

(A) Masturbation.

(B) Sexual intercourse, including genital, oral, or anal, whether between persons regardless of sex or gender or between humans and animals.

(C) Sexual penetration of the vagina or rectum by, or with, an object.

(D) The transfer of semen by means of sexual conduct from the penis directly onto the depicted individual as a result of ejaculation.

(E) Sadomasochistic abuse involving the depicted individual.

(b) A depicted individual has a cause of action against a person who does any of the following:

(1) Creates and intentionally discloses digitized sexually explicit material portraying the depicted individual, and the person knows, or reasonably should know, that the depicted individual in that material did not consent to its creation or disclosure or was a minor when the material was created.

(2) Intentionally discloses digitized sexually explicit material portraying the depicted individual that the person did not create, and the person knows, or reasonably should know, that the depicted individual in that material did not consent to the creation of the digitized sexually explicit material or was a minor when the material was created.

(3) Knowingly facilitates or recklessly aids or abets conduct prohibited by paragraph (1) or (2).

(c) For purposes of this section, both of the following apply:

(1) A person that owns, operates, or controls a deepfake pornography service is engaged in the creation and intentional disclosure of digitized sexually explicit material and shall be presumed to have known that the depicted individual did not consent to the creation or disclosure of the digitized sexually explicit material, unless the person produces evidence of the depicted individual's express written consent.

(2) A person that provides a service that enables the ongoing operation of a deepfake pornography service shall be presumed to be in violation of paragraph (3) of subdivision (b) if both of the following are true:

(A) (i) A depicted individual or public prosecutor provides the person with evidence sufficient to demonstrate that the person is providing services that enable the ongoing operation of a deepfake pornography service that engages in conduct that violates this section.

(ii) Evidence described in clause (i) shall be submitted through a customer service email or other designated process provided by the person or entity if the customer service email or other designated process is prominently displayed on the person's or entity's internet website and shall contain all of the following information:

(I) The name of the deepfake pornography service that the person or entity is providing services to that enable its ongoing operation.

(II) A general description of the services the person or entity is providing that enable the ongoing operation of the deepfake pornography service.

(III) Contact information of the depicted individual or public prosecutor providing the evidence. This information shall be used by the person or entity only to seek additional information regarding the report that is necessary to take the steps required by subparagraph (B).

(B) (i) Subject to clause (ii), the person fails to take all necessary steps to stop providing services that enable the ongoing operation of a deepfake pornography service within 30 days of receiving the evidence described in subparagraph (A).

(ii) The 30-day time parameter in clause (i) may be extended by a court if the court finds that additional time is needed to conduct an ongoing law enforcement investigation or operation.

(d) (1) A person is not liable under this section in either of the following circumstances:

(A) The person discloses the digitized sexually explicit material in the course of any of the following:

(i) Reporting unlawful activity.

(ii) Exercising the person's law enforcement duties.

(iii) Hearings, trials, or other legal proceedings.

(B) The material is any of the following:

(i) A matter of legitimate public concern.

(ii) A work of political or newsworthy value or similar work.

(iii) Commentary, criticism, or disclosure that is otherwise protected by the California Constitution or the United States Constitution.

(2) For purposes of this subdivision, digitized sexually explicit material is not of newsworthy value solely because the depicted individual is a public figure.

(e) (1) It shall not be a defense to an action under this section that there is a disclaimer included in the digitized sexually explicit material that communicates that the depicted individual did not participate in or authorize the creation or development of the material.

(2) It shall not be a defense to an action under this section that a deepfake pornography service has a disclaimer or statement that states that users are prohibited from generating digitized sexually explicit material of a depicted individual without the individual's consent.

(f) (1) A prevailing plaintiff who is a depicted individual who suffers harm as a result of a violation of this section may recover any of the following:

(A) An amount equal to the monetary gain made by the defendant from the creation and disclosure of the digitized sexually explicit material.

(B) One of the following:

(i) Economic and noneconomic damages proximately caused by the disclosure of the digitized sexually explicit material, including damages for emotional distress.

(ii) Upon request of the plaintiff at any time before the final judgment is rendered, the plaintiff may instead recover an award of statutory damages for all unauthorized acts involved in the action, with respect to any one work, as follows:

(I) A sum of not less than one thousand five hundred dollars (\$1,500) but not more than fifty thousand dollars (\$50,000).

(II) If the unlawful act was committed with malice, the award of statutory damages may be increased to a maximum of two hundred fifty thousand dollars (\$250,000).

(C) Punitive damages.

(D) Reasonable attorney's fees and costs.

(E) Any other available relief, including injunctive relief.

(2) A public prosecutor may bring a civil action to enforce this section.

(A) In an action brought under this paragraph, the public prosecutor shall not be required to prove that a depicted individual suffered actual harm.

(B) A prevailing public prosecutor under this paragraph is entitled to all of the following:

(i) Injunctive and other equitable relief.

(ii) A civil penalty of twenty-five thousand dollars (\$25,000) per violation.

(iii) For a violation committed with malice, a civil penalty of fifty thousand dollars (\$50,000) per violation.

(iv) Reasonable attorney's fees.

(v) Any other relief the court deems appropriate.

(3) The remedies provided by this section are cumulative and shall not be construed as restricting a remedy that is available under any other law.

(g) An action under this section shall be commenced no later than three years from the date the unauthorized creation, development, or disclosure was discovered or should have been discovered with the exercise of reasonable diligence.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions.

(i) This section does not apply to conduct that is protected by federal law, including Section 230 of Title 47 of the United States Code.

(j) (1) This section shall not be construed to require an internet service provider to engage in any activity that would violate Title 15 (commencing with Section 3100) of Part 4 of Division 3. An internet service provider shall not be held liable under this section for the mere transmission, routing, or provision of access to third-party content over its network.

(2) As used in this subdivision, "internet service provider" has the same meaning as that term is defined in Section 3100.

SEC. 2. The Legislature finds and declares that the provisions of this act that clarify that a deepfake pornography service is subject to Section 1708.86 of the Civil Code are declaratory of existing law.