March 27, 2026

Senate Privacy, Digital Technologies, and Consumer Protection Committee
ATTN: Christian Kurpiewski
California State Capitol
1315 10th St.
Sacramento, CA 95814

RE: SB 1142 – "Digital Dignity Act" (Oppose Unless Amend)

Dear Chair Cabaldon, and Members of the Senate Privacy, Digital Technologies, and Consumer Protection Committee:

On behalf of the Computer & Communications Industry Association (CCIA) and the undersigned organizations, I write to raise several concerns regarding SB 1142 in advance of the April 6, 2026 hearing.

Responsible businesses understand the potential for misuse of digital replicas and support robust legal protections and frameworks that balance innovation with the safeguarding of personal rights. Unfortunately, this bill does not provide the right approach. While well-intended, it raises serious concerns about free expression and conflicts with both existing state and federal law. Legal experts have detailed the constitutional concerns posed by similar legislation.[1] **While we are still evaluating recent amendments to SB 1142, we do have some initial concerns about the potential impacts of the bill.**

Interaction with Existing California Digital Replica Laws

California has already enacted a comprehensive suite of strong protections to shield citizens from digital replica misuse. This includes legislation targeting non-consensual intimate imagery

[1] Re:Create, *Constitutional Concerns with NO FAKES and Similar Acts* (Aug 20, 2024), https://www.recreatecoalition.org/constitutional-concerns-with-no-fakes-and-similar-acts/.

(NCII), CSAM, commercial misuse of replicas, and election misinformation (e.g., SB 926, AB 1962, AB 1836, AB 2655, and others).

We do not object to additional clarification ensuring that existing law applies to digital replicas. Fundamental legal protections against defamation, false advertising, and intentional infliction of emotional distress should be enforceable regardless of whether the harm is incurred via digitally created or traditional depictions. We look forward to discussing with the author how this bill fits into these existing frameworks, the specific gaps the author believes must be filled, and how to avoid duplicating efforts under existing laws.

Impact on Free Expression

The notice-and-takedown framework proposed in SB 1142 raises significant constitutional concerns by bypassing judicial oversight in favor of a private reporting system. Under the First Amendment, the government generally cannot compel the removal of speech without a prior judicial determination that the content is legally unprotected. By requiring covered platforms to act on individual reports of "unauthorized digital replicas" without a court first adjudicating whether a violation has actually occurred, the bill essentially delegates a quasi-judicial function to private entities. This lack of due process risks suppressing constitutionally protected content, such as political parody or news reporting, before it can ever be evaluated by an impartial judge.

Furthermore, the bill's structure creates an inevitable chilling effect on legitimate expression. Because SB 1142 holds "large online platforms" liable for failing to act once they have "actual knowledge" of a violation, platforms are financially incentivized to adopt a 'remove-first' policy. To mitigate the risk of costly litigation and statutory damages, they will likely over-remove any flagged content that sits in a legal gray area. Some expressions that may depict an individual could be First Amendment=protected content such as satire, commentary, or transformative art. In such an environment, the mere threat of a report can effectively censor a speaker, leading to the systemic disappearance of lawful discourse.

Federal courts have already struck down similar California statutes aimed at regulating digital replicas and deepfakes. For instance, a federal court recently invalidated provisions of AB 2655 (Berman, Ch. 261, Stats. 2024), finding them to be unconstitutional content-based and viewpoint-based restrictions.[2] Like those failed measures, SB 1142 singles out a specific category of speech (digital replicas) for regulation. If the law discriminates based on the content of the replica or the viewpoint it expresses, it remains highly vulnerable to the same constitutional challenges that have rendered previous California digital content laws unenforceable.[3]

Finally, SB 1142 appears to directly conflict with federal law, specifically Section 230 of the Communications Act. We appreciate that Section 3344.2.(g)(2) specifically mentions Section 230 liability protections for actions of "other information content providers." Section 230 generally immunizes interactive computer services from liability for content provided by their users, but this extends to providers' processes and decisions by which they remove or fail to remove content.[4] By creating a state-level mandate that requires platforms to police and

[2] *Kohls v. Bonta*, 797 F. Supp. 3d. 1177 (E. D. Cal. 2025).
[3] *Cf. NetChoice, LLC v. Bonta*, 673 F. Supp. 3d 1105 (N.D. Cal. 2023).
[4] 47 U.S.C. § 230(c)(2) (2018).

remove user-generated digital replicas under threat of civil penalties, the bill risks being preempted. Forcing platforms to act as arbiters of truth and identity not only conflicts with federal protections but also fragments the national legal landscape, making it nearly impossible for platforms to maintain a consistent policy for protected speech.

Knowledge and Intent

SB 1142 may be attempting to address a gap in the current digital replica landscape for individuals who have not used their likeness for commercial use. However, these strict notice-and-takedown provisions may punish intermediaries for deceitful or malicious actions taken by unrelated individuals. Digital services cannot know every nuance of every piece of content that users post, and certain services may find it difficult or impossible to locate, let alone remove, such harmful content.

Policymakers should hold accountable bad actors who maliciously exploit a person's likeness without permission, ensuring that liability falls on them rather than intermediaries who lack knowledge or intent. Responsibility for allegedly offending content should lie with the party that intentionally and knowingly posted the content.

Liability should be limited to those who intentionally or knowingly violate an individual's intellectual property rights or commit deceptive acts. Any liability should be targeted to the individual(s) who committed these acts using a "digital replica," rather than tying liability to a product or service that allowed the media to be generated or served as a means for sharing it. This framework would protect expressive uses and ensure that liability lies in the most appropriate place — with the actor most capable of mitigating harm and most responsible for such harm. As written, the bill may place intermediaries like AI model developers or system deployers in an untenable position.

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CCIA acknowledges the significance of this policy issue and recognizes the potential for misuse across various sectors. We welcome the opportunity to collaborate on refining the language of this proposal to further establish a framework that our members can adhere to while protecting free expression.

Respectfully submitted,

Aodhan Downey
State Policy Manager, West Region
Computer & Communications Industry Association

On Behalf of:
Ronak Daylami, California Chamber of Commerce
Annalee Augustine, Civil Justice Association of California
Peter Chandler, Internet Works

Robert Boykin, TechNet