

# SB 771 (Stern)

## Digital Hate Crimes, Intimidation, and Harassment

UPDATED: April 1, 2025

### SUMMARY

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California law currently prohibits every person and every corporation from engaging or aiding, abetting, or conspiring to engage in hate crimes, harassment, and intimidation aimed at frightening people out of exercising their legal rights.

SB 771 clarifies how these existing California laws potentially apply to AI- algorithmic distribution of through social media platforms and enacts financial consequences proportional to such platforms.

### THE PROBLEM

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Violence, threats, and intimidation targeting certain historically vulnerable populations – Jews, LGBTQ+ community members, women, immigrants, and people of color especially – are at historic highs and rising at record-shattering rates. A recent Harvard study found a causal relationship between widespread violence against historically target groups and the practices of social media platforms.<sup>1</sup>

Notwithstanding the escalating danger, social media platforms have announced dramatic retreats in screening and moderation practices to protect targeted populations. This change could not have come at a more dangerous time for groups that are historically targeted. L.A. County’s most recent hate crime report reflected double or triple digit increases in hate crimes resulting in “the largest number[s] ever recorded” against the LGBTQ+ community,

Jews, Asians, Blacks, Latinos, and immigrants.<sup>2</sup> This is a national trend that is accelerating.

### BACKGROUND

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Imagine if, before the Internet, a person created flyers credibly warning Jews they would be murdered if they stepped out of their homes on election day to vote. Imagine the person handed the flyers to a friend to deliver them to others believed, on the basis of the friend’s identifying research, to be Jews. Certainly, there is a possibility that both the flyer-creator and the delivering friend could be liable under existing hate crime, intimidation, and harassment laws.

Now imagine the same anti-Semitic person uploading the same flyer’s credible threat to a social media platform where the platform steps into the role of identifying the recipients of and delivering the murderous threat to those who may in fact be terrorized out of voting. Here, too, there should clearly be a possibility, depending upon the facts, that the such acts could make the platform be liable for a similar violation as the flyer- delivering friend.

### THE SOLUTION

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SB 771 seeks simply (i) to clarify how existing California laws outlawing hate crimes, intimidation, and harassment apply to AI- algorithmic distribution of through social media platforms, and (ii) enact financial consequences proportional to such platforms so the penalties will not be viewed as an absorbable cost of doing business.

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<sup>1</sup> <https://systemicjustice.org/article/facebook-and-genocide-how-facebook-contributed-to-genocide-in-myanmar-and-why-it-will-not-be-held-accountable/>

<sup>2</sup> <https://lacounty.gov/2024/12/11/highest-total-of-hate-crimes-ever-reported/>

## **SUPPORT**

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- American Association of University Women (co-sponsor)
- Children's Advocacy Institute at the University of San Diego School of Law (co-sponsor)
- Consumer Federation of California (co-sponsor)
- Jewish Family and Children's Services of San Francisco (co-sponsor)
- Rainbow Spaces (co-sponsor)
- San Diego Democrats for Equality Executive Board (co-sponsor)
- Loma LGBTQA+ Alumni and Allies (co-sponsor)