California Social Media Platform Liability Bill

To hold social media platforms liable for harms they cause to children and teenagers - SPONSOR

AB 3172, authored by Calif. Assemblymember Lowenthal (69th Assembly District)

What does AB 3172 do? This bill holds social media platforms accountable for the harm they cause to children and teenagers. This legislation would impose financial liabilities on large social media companies if proven in court that they knowingly offered products or design features that resulted in harm or injury to minors.

Why is AB 3172 necessary? We are in the midst of an unprecedented and exploding youth mental health crisis that researchers, clinicians, and whistleblowers attribute in significant part to social media use.

- California kids are spending more time on social media: 38% of tweens and 84% of teens use social media.
- During the time that Instagram use rose from 1 million users to 1 billion, suicide among girls age 10 to 14 doubled.
- Among teens who reported suicidal thoughts, 6% of American users traced the desire to kill themselves to Instagram.
- Instagram knowingly worsened existing body image issues for one in three teenage girls.
- TikTok has pushed harmful content promoting eating disorders and self-harm to young users. Every 39 seconds, TikTok recommended such videos about body image and mental health to teens.
- Fentanyl was the cause of 77.14% of drug deaths among teens in 2021, and, according to one California DA, “Social media is almost exclusively the way they get the pills.”

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What are platforms' obligations under AB 3172? Under existing California negligence law, Civil Code section 1714, social media platforms are required to manage their services with ordinary care and skill, particularly in how they affect children. This means they need to be diligent in how they design, distribute, and market their features, to ensure they do not harm minors. AB3172 amends Civil Code section 1714 by adding statutory damages against companies that are found in court to be liable for harms to minors. Under the bill, if a platform fails to exercise its already established duty of care, it becomes financially liable for damages, including a set amount of $5,000 per violation up to a maximum of $1M per child, or three times the amount of the child’s actual damages, whichever is applicable. This financial liability aims to incentivize platforms to proactively safeguard children against potential harm.

How will AB 3172 be enforced? Enforcement would be carried out through the legal system, leveraging the principles of negligence law, akin to how personal injury cases are handled. Affected individuals or their guardians can file lawsuits against social media platforms that fail to uphold the required standard of care for children. These cases will require representatives of affected minors to demonstrate that a platform’s negligence directly resulted in harm to a child, seeking compensation through either settlements or court judgments. Recent state court rulings indicate support for using negligence law against social media companies.

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