



June 18, 2024

Senate Judiciary Committee
1021 O Street, Room 3240
Sacramento, CA 95814
via: sjud.fax@sen.ca.gov

Re: **OPPOSE - AB 3172** Poses Potentially Severe Consequences to LGBTQ+ Youth & Content

Dear Chair Umberg and Members of the Senate Judiciary Committee,

LGBT Tech is one of the nation's premier organizations working to bridge the technology gap for LGBTQ+ individuals through partnerships with non-profit groups, policy makers, scholars, industry, and innovators. Alongside our policy work, LGBT Tech's programmatic branch distributes technology, grants, and education across the country, including to more than a dozen LGBTQ+ community centers in California. As advocates for the vital digital rights and well-being of the LGBTQ+ community, including the millions who live in California, **we write to respectfully express our deep concerns with the content and potential consequences of AB 3172**, and to outline the reasons why we must oppose the bill.

While we understand and agree with the author's desire to establish protections and safeguards for youth online, we believe that fatal flaws in AB 3172 open the door to dangerous over-moderation and could severely impact the rights and access of online users, particularly those in the LGBTQ+ community.

The Importance of Online Access for LGBTQ+ Youth

The Williams Institute at the University of California, Los Angeles School of Law reports that more than 10% of California's students in public middle and high schools identify as members of the LGBTQ+ community, and we estimate that the number of LGBTQ+ teens (aged 13-17) in California is larger even than the population of Sacramento. While California is often looked to as one of the most progressive states when it comes to creating policies that support the community, LGBTQ+ youth across the state still report finding themselves in hostile school



environments, particularly in rural areas. Furthermore, recent data from GLSEN illustrates that, outside of harassment and bullying, many of these students are often forced to deal with discriminatory school policies and a lack of crucial in-school resources for support.

This discrimination, coupled with the worsened mental health outcomes faced by LGBTQ+ youth, underscores the essential importance of digital access. Online spaces provide opportunities for young members of the LGBTQ+ community to search for and learn from invaluable resources, and for those in rural communities or who face an unsupportive family life, these platforms may serve as their primary source of affirmation and social acceptance. Three-fourths of LGBTQ+ youth indicated that they are more honest about themselves online. This ability to be genuine in safe spaces online can prove lifesaving, and studies show that access to these online spaces reduces rates of attempted LGBTQ+ youth suicide relative to those without access. Therefore, any restrictions to this access can pose potentially severe consequences for vulnerable LGBTQ+ youth.

The Role of Platforms for LGBTQ+ and Marginalized Users

According to recent national polling conducted by LGBT Tech, online platforms play an integral role in the LGBTQ+ community, and particularly in helping to explore identity from a young age. In fact, 64% of LGBTQ+ adults report they joined online platforms before the age of 18, with a majority having joined specifically to search for LGBTQ+ resources and community. The impact of this access cannot be overstated - our research found that 74% of LGBTQ+ adults and 90% of transgender adults say online spaces contributed to their discovery and understanding of their identity. When looking at the issue from an intersectional lens, these effects are doubly impactful, as communities of color often find these platforms to be vital outlets for political activism, identity building, and empowerment.

Yet, contrary to these evident positive impacts of online platforms on marginalized communities, AB 3172 assumes there is an immutably negative relationship between online platforms and teenagers, linking them to a broad and inimical definition of “injuries.” Meanwhile, scientific research on the subject is inconclusive at best. While research has tended to center on problematic youth use and impacts, recent exploratory efforts have expanded to consider



measures of social connectedness and personality development, particularly important when considering the needs of LGBTQ+ youth. In fact, one examination of scientific literature from 2012-2022 on the topic held that access to digital technologies and spaces engenders positive outcomes in the cognitive and social-emotional development of our youth as they grow up in an increasingly ubiquitous digital world.

We recognize how crucial it is to refine and improve platforms, especially to better safeguard the well-being of their young users. However, we ask you not to support a bill based on a foundation of inconclusive research that dismisses any opportunities platforms offer LGBTQ+ and other marginalized communities in California.

AB 3172's Vague Definitions Risk LGBTQ+ Censorship

As currently written, the bill's broad and ambiguous language about holding platforms liable for "specific damages" and "injuries" opens the door to over-moderation of content, which could disproportionately impact the LGBTQ+ community.

While many platforms seek to prioritize the safety of the children who use them, including through kids-oriented versions and specific protections for their younger users, AB 3172 demands a new and overreaching level of moderation. Due to the concerning broad and subjective nature of how "injuries" and "damages" are defined in the text, providers may be forced to make difficult decisions about what content is allowed on their platforms, which has disproportionately impacted LGBTQ+ content negatively in the past. Coupled with moderation technologies that are proven vulnerable to biases and error, even the most innocuous LGBTQ+ content faces the risk of suppression or removal.

Much like SESTA/FOSTA, while well-intentioned, AB 3172 creates an environment that forces providers to be overly cautious about content moderation and allows for weaponization by bad political actors, which has a disparate impact on marginalized communities.



[AB 3172 Follows the Failures of Other Constitutionally Dubious State Legislation](#)

Rather than learning from the mistakes made by other state legislative efforts, AB 3172 advances a legally and constitutionally dubious model that has been called into question several times. The First Amendment guarantees the right to lawful free speech and constitutionally protected content. However, AB 3172, through its many restrictions and ill-defined terminology, infringes upon those rights and opens the door to censorship.

Time and time again, we have repeatedly seen similar legislative efforts, including [here in California](#), fail to hold up in court. Recent rulings in other states like [Arkansas](#) and [Ohio](#) further demonstrate that this type of legislation fails to meet constitutional standards, leading to injunctions that freeze the legislation in place and making any future efforts to protect children only more tenuous.

To avoid these same mistakes, we ask Californian lawmakers to break from this pattern of advancing constitutionally dubious legislation, and instead find ways to protect youth online that do not risk censorship and other infringements on individual rights.

As you consider the critical issue of protecting our state's youth online, we urge you to also consider the potential consequences posed to the access and safety of LGBTQ+ youth and other disempowered Californian communities.

We appreciate your time and consideration, and offer ourselves as a future resource in finding balanced legislation that addresses the need for safeguards without creating unintentional consequences for marginalized communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos Gutierrez".

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A handwritten signature in black ink, appearing to read "Shae Gardner".

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