VIA PORTAL

July 8, 2025

Senator Thomas Umberg, Chair
Senate Committee on Judiciary
1021 O Street Suite 7510
Sacramento, CA 95814

Assemblymember Rebecca Bauer-Kahan
California State Assembly
1021 O Street, Suite 5210
Sacramento, CA 95814

OPPOSE — AB 302 (as amended July 3, 2025)

Dear Chair Umberg and Assemblymember Bauer-Kahan,

The First Amendment Coalition and Freedom of the Press Foundation write to respectfully oppose Assembly Bill 302. While we appreciate the importance of protecting the safety of public officials, AB 302 is overbroad and would not serve that purpose. If enacted, it would be used to silence constitutionally protected speech, including news reporting, about government officials.

AB 302 would allow protected individuals, defined as current or former elected representatives, appointed officers of a court or magistrate, and their family members residing in the same household, to demand that businesses refrain from selling their personal information or delete their personal information, and requires businesses to comply with 72 hours of receiving a demand. AB 302 would also require governmental entities to refrain from publishing or delete a protected individual's personal information. It creates a private right of action to enforce these provisions and permits the award of attorney's fees and actual and punitive damages to a prevailing plaintiff.

In addition, AB 302 would prohibit a business from selling personal information of protected individuals when the business knows or should know "that selling the personal information poses an imminent and serious threat to the protected individual" and sale of the personal information results in certain specified harms.

AB 302's definition of "business" could apply to news outlets, and its carve out for news and other speech on a matter of public concern will not sufficiently protect constitutionally protected speech.

We acknowledge and appreciate that AB 302 appears to be drafted to attempt to avoid applying to news outlets. However, the bill does not sufficiently avoid application to the press and will chill constitutionally protected speech.

AB 302 defines “business” as “a sole proprietorship, partnership, limited liability company, corporation, association, nonprofit entity, or other legal entity that collects individuals’ personal information, or on the behalf of which that information is collected, and that alone, or jointly with others, determines the purposes and means of the processing of personal information and does business in the state.” The bill does not define “collect” or “process,” but both terms are defined in California Civil Code Section 1798.140.[1]

This definition of “business” could apply to the news media. News outlets routinely collect and process personal information in order to report on newsworthy matters. Given the broad definitions of “collect” and “process” used elsewhere in California law, obtaining personal information through regular journalistic techniques such as reviewing public records, interviewing sources, or even observing the subject of a news report and then using that information for reporting could constitute “collecting” and “processing” the information.

As a result, Section 3273.76 of AB 302 could arguably apply to news outlets and allow protected individuals to demand that news outlets refrain from “selling” their alleged personal information — such as through the sale of a newspaper or subscription to a news website — or to demand that news outlets delete already published alleged personal information.

We appreciated that AB 302 attempts to carve out news reporting and other speech on matters of public concern from its scope by providing that “[i]nformation that is relevant to, and displayed as part of, a news story, commentary, editorial, or any other speech on a matter of public concern” is not included in the definition of “personal information.” However, this provision will not prevent AB 302 from being used to censor and chill news reporting and other constitutionally protected speech, should it become law.

Notwithstanding this language in the bill, protected individuals could still demand that news outlets refrain from publishing and selling news reports or delete already published reports containing what the individuals contend is “personal information” by arguing that the information is not relevant to a matter of public concern. Under AB 302, they may also file, or merely threaten to file, lawsuits against news outlets demanding declaratory or injunctive relief if outlets do not censor news reports within 72 hours.[2] News outlets will be forced to expend time and resources defending themselves from these lawsuits, which will be extremely expensive.

Even if a meritless lawsuit is subject to an anti-SLAPP motion and award of attorney’s fees against the plaintiff, that still requires the defendant to retain counsel, who often will not commit

---

[1] Cal. Civil Code Section 1798.140 defines “collects,” “collected,” or “collection” as “buying, renting, gathering, obtaining, receiving, or accessing any personal information pertaining to a consumer by any means. This includes receiving information from the consumer, either actively or passively, or by observing the consumer’s behavior.” It defines “processing” as “any operation or set of operations that are performed on personal information or on sets of personal information, whether or not by automated means.”

[2] In some cases, it will be impossible for a news outlet to comply with a demand to delete alleged personal information, such when it is published in physical newspapers or magazines that have already been distributed.

to representing the defendant without advance payment of fees, a cost that is often prohibitive regardless of the prospect of reimbursement, which is never guaranteed and can be delayed by appeal.

These demands and lawsuits will chill news outlets from reporting on matters of public concern. Even if just threatened with a civil fine or a potentially financially ruinous lawsuit, some members of the news media — in particular community news outlets and nonprofit newsrooms — may choose to remove or refrain from publishing news stories that include officials' alleged personal information. It will not matter that these news stories actually relate to a matter of public concern. The fact that news outlets will have to defend their reporting as relating to a matter of public concern, potentially through multiple appeals, will cause some to self-censor.

These same concerns are magnified for regular Californians who want to speak out on matters of public concern that relate to protected individuals' alleged personal information. Small businesses posting on social media, for instance, are unlikely to undertake the expense of defending themselves from a lawsuit, no matter how meritless, that demands that they delete their speech from the internet. They will simply take down posts or not post in the first place. As a result, AB 302 will create a powerful tool for chilling and censoring online speech.

AB 302's definition of "personal information" is overly broad.

The risk that AB 302 will chill and censor speech on matters of public concern is magnified by the bill's overly broad definition of "personal information."

AB 302 defines personal information to encompass 12 categories of information. Much of this information is highly relevant to reporting on newsworthy matters.

For instance, "personal information" includes a protected individual's "personal email address." Consequently, news reporting that a current or former official behaved inappropriately online using a personal email address could be chilled by the bill. For example, in 2024, CNN reported that Mark Robinson — the former lieutenant governor of North Carolina who was running for governor — had "made a series of inflammatory comments on a pornography website's message board."[3] CNN proved its reporting by showing links between the specific username and personal email address that Robinson used across several social media platforms.[4] Robinson derided CNN's reporting as "tabloid trash"[5] — suggesting that he did not believe it related to a matter of public concern — and filed a baseless defamation claim against CNN, which he later dropped.[6]

---

[3] Andrew Kaczynski & Em Steck, *'I'm a black NAZI!': NC GOP nominee for governor made dozens of disturbing comments on porn forum*, CNN (Sept. 19, 2024).
[4] *Id.* While CNN did not publish Robinson's personal email address, it did publish a username used by Robinson across the internet to prove its reporting. Similarly, publishing a personal email address may in some instances be necessary to provide evidence of a news outlet's reporting.
[5] *Id.*
[6] Sydney Haulenbeek, *Mark Robinson ends defamation lawsuit against CNN over 'black NAZI' article*, Courthouse News Serv. (Jan. 31, 2025).

AB 302's definition of "personal information" also includes "a child, spouse, parent, or sibling's name." Consequently, the bill could discourage reporting about nepotism or other misconduct by public officials related to their relatives. For example, an investigation by LAist exposed millions of dollars in unaccounted-for coronavirus relief funds that former Orange County Supervisor Andrew Do routed to a nonprofit connected to his daughter Rhiannon Do.[7] LAist's reporting sparked a federal probe and eventual conviction of Andrew Do for corruption.[8] Had a law like AB 302 existed, it could have chilled LAist from publishing the name of Do's daughter, who was involved in the scheme.

AB 302 also defines "personal information" to include a "place of employment" of a protected individual. As a result, the bill could chill reporting or public discussion of concerns that arise from an official's (or their family members') employment status. Numerous news outlets, for instance, have reported on the consulting company run by Ginni Thomas, the wife of U.S. Supreme Court Justice Clarence Thomas, and the potential conflicts of interest it could create.[9] But if it becomes law, AB 302 would discourage reporting on similar topics about California judicial officials.

"Personal information" as defined by AB 302 also includes a protected individual's "birth, marital, or divorce record." Information from these records, however, can be highly relevant to newsworthy matters. For example, journalists used divorce records to report that the second wife of Defense Secretary Pete Hegseth, whom Hegseth has been accused of threatening and abusing, is bound by a nondisparagement clause as a condition of the couple's divorce.[10] In another example from 2004, numerous news outlets reported on sex club allegations made by actress Jeri Ryan against her ex-husband, politician Jack Ryan, in divorce records ordered unsealed by a Los Angeles court, leading Mr. Ryan to withdraw his candidacy for the Senate.[11] AB 302 would have chilled this important reporting.

Finally, AB 302's definition of "personal information" to include a protected individual's residential address will also chill vital news reporting. For instance, last year the Dallas Express broke the story that Rep. Kay Granger, who had not voted in the House of Representatives for months, had moved to a "local memory care and assisted living home."[12] The Express did not name the facility, but other news outlets did.[13] If AB 302 is enacted, it will discourage similar reporting in California in the future.

---

[7] *LAist investigates: Andrew Do corruption scandal* (last visited July 7, 2025) (collecting LAist reporting).
[8] Nick Gerda, Destiny Torres, & Jill Replogle, *Ex-OC supervisor Andrew Do sentenced to 5 years in prison over corruption scheme*, LAist (June 9, 2025).
[9] *See, e.g.*, Brian Schwartz, *Inside the consulting firm run by Ginni Thomas, wife of Supreme Court Justice Clarence Thomas*, CNBC (Apr. 5, 2022).
[10] Karoun Demirjian, *Hegseth's Ex-Wife is bound by a nondisparagement clause*, N.Y. Times (Jan. 24, 2025).
[11] P.J. Huffstutter & John Beckham, *Sex club allegations drive senate candidate from race*, L.A. Times (June 26, 2004).
[12] Carlos Turcios, *Exclusive: Where is Congresswoman Kay Granger?*, Dallas Express (Dec. 20, 2024)
[13] *See, e.g.*, Alexis Simmerman, *Texas US Rep. Kay Granger, who hasn't voted since July, in senior living facility, son says*, Austin Amer.-Statesman (Dec. 23, 2024).

These are only a few examples of the types of reporting that the overly broad definition of "personal information" in AB 302 would chill, which hurts the free flow of information and leaves Californians less informed. In general, the bill covers more information than is necessary to satisfy any compelling governmental interest. Its broad definition of "personal information" increases the risk that AB 302 would chill a large amount of constitutionally protected and important speech about public officials, if it becomes law.

AB 302 raises serious First Amendment concerns

Finally, AB 302 runs up against the protections of the First Amendment because it directly prohibits speech based on its content.

The Supreme Court has said that "state action to punish the publication of truthful information seldom can satisfy constitutional standards."[14] "More specifically, [the Supreme Court] has repeatedly held that 'if a newspaper lawfully obtains truthful information about a matter of public significance then state officials may not constitutionally punish publication of the information, absent a need . . . of the highest order.'"[15] Any such law must also be narrowly tailored,[16] meaning it is "the least restrictive means to further a compelling interest."[17]

In addition, the Supreme Court has held that "[c]ontent-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests."[18] As the Court recently confirmed, this strict scrutiny for content-based laws "is fatal in fact absent truly extraordinary circumstances." *Free Speech Coal., Inc. v. Paxton*, No. 23-1122, 2025 U.S. LEXIS 2497, at *25 (Jun. 27, 2025).

Under the First Amendment, the Supreme Court has repeatedly prohibited attempts to bar or punish the publication of truthful information on matters of public concern, including when privacy interests are at stake.[19] In *Cox Broadcasting v. Cohn*, for instance, the Court held that the First Amendment barred holding a newspaper civilly liable under a state statute that made it a crime to publish the name of a rape victim in order to protect the privacy of the victim and the victim's family, citing the risk of "self-censorship" and likely "suppression of many items that would otherwise be published and that should be made available to the public."[20]

In addition, a federal court in California has held that a state law that restricted publishing the home addresses and telephone numbers of certain California government officials was likely

---

[14] *Smith v. Daily Mail Publ'g Co.*, 443 U.S. 97, 102 (1979).
[15] *Bartnicki v. Vopper,* 532 U.S. 514, 527-28 (2001) (quoting *Daily Mail*, 443 U.S. at 103).
[16] *Florida Star v. B.J.F.*, 491 U.S. 524, 541 (1989).
[17] *Foti v. City of Menlo Park*, 146 F.3d 629, 637 (9th Cir. 1998).
[18] *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).
[19] *See, e.g.*, *Florida Star*, 491 U.S. at 526; *Daily Mail*, 443 U.S. 105-06; *Landmark Commc'ns, Inc. v. Virginia*, 435 U. S. 829 (1978); *Oklahoma Publ'g Co. v. District Court*, 430 U. S. 308 (1977).
[20] 420 U.S. 469, 496 (1975).

unconstitutional. In *Publius v. Boyer-Vine*, the Eastern District of California held that California Government Code § 6254.21(c) was a content-based restriction on speech and was not narrowly tailored in part because it made "no attempt to prohibit or prevent true threats" and because it did not "differentiate between acts that 'make public' previously private information and those that 'make public' information that is already publicly available."[21] (This statute is being repealed in AB 1521, the Assembly Judiciary Committee's Omnibus bill.)

Although it contains an ostensible carveout for speech of public concern, AB 302 is not narrowly tailored under strict scrutiny because it is not limited to attempting to prohibit or prevent true threats. While Section 3273.79 appears to be aimed at prohibiting the sale of personal information that poses an imminent and serious threat to an individual and results in certain specified harms, the rest of the bill is not so limited. For instance, Section 3273.76 applies regardless of whether the personal information could contribute to a true threat or result in harm to a protected individual.

To the extent that AB 302 applies to personal information that has previously been made publicly available,[22] it is not narrowly tailored. It is also not narrowly tailored because it prohibits publication of information that is not normally considered private, such as place of employment.[23]

The absence of criminal penalties does not change the analysis. The Supreme Court has recognized that the risk of a civil judgment chills speech as much as if not more than the risk of criminal punishment.[24]

Attempts to weaken these constitutional standards by prohibiting the publication of truthful information about public officials endangers our democracy. Laws such as AB 302 could open the door to attempts to punish, for example, the publication of truthful information that identifies

---

[21] 237 F. Supp. 3d 997, 1019, 1020 (E.D. Cal. 2017)

[22] AB 302 is largely silent on whether it applies to information that has previously been made public. We recognize that "personal information" does not include "[i]nformation that is required by law to be made publicly available by a governmental entity." However, this provision is insufficient for two reasons. First, it does not except information that has been made publicly available by a means other than release by a government entity as required by law. Second, because California, federal law and the constitution require government entities to make vast amounts of information publicly available, *see, e.g.* Cal. Government Code Section 7920.000 *et seq.*, recipients of demands to censor alleged personal information are unlikely to know whether the information falls under this exception and may choose to self-censor to avoid litigation and penalties.

[23] *See, e.g., Eskaton Monterey Hospital v. Myers*, 134 Cal. App. 3d 788, 794 (1982) (noting "information as to the education, training, experience, awards, previous positions and publications of [the employee] … is routinely presented in both professional and social settings, is relatively innocuous and implicates no applicable privacy or public policy exemption").

[24] *New York Times Co. v. Sullivan*, 376 U.S. 254, 277 (1964) ("The fear of damage awards under a rule such as that invoked by the Alabama courts here may be markedly more inhibiting than the fear of prosecution under a criminal statute.").

Immigration and Customs Enforcement agents,[25] something many in California would surely not support.

Because AB 302, as written, would chill constitutionally protected speech including important news reporting about elected and judicial officials, and because it raises serious First Amendment concerns, we oppose this bill.

If you would like to discuss our concerns, please do not hesitate to contact Ginny LaRoe, advocacy director, First Amendment Coalition, glaroe@firstamendmentcoalition.org or Seth Stern, advocacy director, Freedom of the Press Foundation, seth@freedom.press.

Sincerely,

FIRST AMENDMENT COALITION

Ginny LaRoe
Advocacy Director

FREEDOM OF THE PRESS FOUNDATION

Seth Stern
Advocacy Director

cc: Honorable Members of the Senate Judiciary Committee
Amanda Mattson, Counsel, Senate Judiciary Committee
Maren Bick-Maurischat, Legislative Aide

[25] *See, e.g.*, Louis Casiano & Bill Melugin, *California home of suspect accused of doxxing ICE agents raided and searched*, Fox News (May 1, 2025).