

Memorandum in Support

January 30, 2024

S. 895-A

A. 6789-A

By: Senator Hoylman-Sigal

By: M. of A. Lee

Senate Committee: Internet and Technology

Assembly Committee: Consumer Affairs and Protection

Effective Date: On the 180th day after enactment

AN ACT to amend the general business law, in relation to requiring disclosure of certain social media terms of service

LAW AND SECTIONS REFERRED TO: Section 1100 of the General Business Law

This bill would require social media companies, as defined, to post their terms of service and to submit reports to the Attorney General on their terms of service and content moderation policies and outcomes. It would require the clear disclosure of current policies on hate speech and racism, disinformation, extremism, and threats of violence, and provide data on the numbers of content, groups and users flagged for violation, and the number and types of enforcement actions.

The New York State Bar Association's Task Force on Combatting Anti-Semitism and Anti-Asian Hate completed the attached report, providing a number of recommendations, including support for the Stop Hiding Hate Act. This report was adopted as policy by NYSBA's House of Delegates at their January 2024 meeting.

Over the last decade, research has shown that social media can increase hate crimes.¹ Researchers have shown that social media can lead toward discriminatory attitudes and actual hate crimes against people in marginalized groups. Cities with a higher incidence of a certain kind of racist tweets reported more actual hate crimes related to race, ethnicity and national origin, and both online vicarious and individual discrimination were associated with worse psychological well-being among adults of racial/ethnic minorities.²

Internet platforms have adopted a variety of measures to address the hate speech problem, but their measures are divergent and often not transparent. In an effort to respond to internet hate speech and to introduce higher disclosure standards, legislators have introduced the Stop Hiding Hate Act.

The rise of internet hate speech sets up a potential clash between our country's cherished values of free speech and the need to address the hate speech that has such a corrosive effect on our society. However, legislation like the Stop Hiding Hate Act would likely survive First Amendment scrutiny. This bill is not content-based and merely requires disclosure. The Supreme Court has

¹ *In the Name of Hate: Examining the Federal Government's Role in Responding to Hate Crimes*, U.S. Commission on Civil Rights, Nov. 13, 2019, <https://www.usccr.gov/files/pubs/2019/11-13-In-the-Name-of-Hate.pdf>.

² [EC-AND-HOD-AMENDED-Task-Force-on-Antisemitism-and-Anti-Asian-Hate-FINAL-1.22.24.pdf \(nysba.org\)](#)

opined that there are “material differences between disclosure requirements and outright prohibitions on speech.”³

Under the existing precedent, the Stop Hiding Hate Act is fully consistent with First Amendment Principles. This legislation will be an important step forward toward providing the transparency needed to more effectively address the harmful rise of internet hate speech.

For the above reasons and the attached report, the New York State Bar Association **SUPPORTS** this legislation.

³ *Zauderer v. Office of Disc. Counsel*, 471 U.S. 626, 650 (1985). *Cf. Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd.*, 502 U.S. 105, 116 (1991) (“[t]he First Amendment presumptively places this sort of discrimination [content-based burden on speech] beyond the power of the government”).