



AB 488 (Irwin) Online Charitable Giving

SUMMARY

AB 488 provides a necessary update to California's charitable fundraising laws to ensure donors, non-profits, and online charitable fundraising platforms can continue their philanthropic work in our state.

BACKGROUND

Existing law, the Supervision of Trustees and Fundraisers for Charitable Purposes Act (the "Act"), provides the Attorney General's Office with primary enforcement and supervisory powers over charities, trustees, commercial fundraisers, and other legal entities that hold or solicit donations for charitable purposes. The Act requires these entities to register and annually report certain information to the Attorney General's Office, and it prohibits them from making deceptive or misleading solicitations, among other things.

In recent years, the shift to charitable fundraising on Internet platforms has fundamentally altered the landscape of charitable giving. Internet companies have developed new methods for individuals to donate to charities through websites and web applications that serve as "charitable fundraising platforms" in ways that current solicitation laws, adopted before the Internet age, do not specifically reach. As these platforms grow and evolve, they are increasingly supplanting traditional methods for charitable solicitations, such as telephone and direct mail. During the pandemic, online fundraising became the primary source of donations for many charities. Some of these platforms are also engaging in entirely novel fundraising practices, some of which may mislead or defraud the public if left unregulated.

THE PROBLEM

Despite the convenience provided by online charitable giving, there are several ways in which these new methods of giving have deceived and mistreated the public.

For example, in some cases, these platform entities solicit and take donors' contributions leaving the donors with the false belief that their donations went directly to or were eventually granted to the charities of their choice. In other instances, donations were made to a platform's affiliated or partnering charity, then that charity kept the donations or granted them to charities donors did not select.

Other donors mistakenly believed their donations would be delivered promptly or within a reasonable time, that their contact information would be shared with recipient charities, or that charities listed on the platform gave the platform and its users permission to solicit on their behalf. Some platforms list and grant donations to charities that are prohibited from operating and soliciting in California for violations of the Act, yet still encourage their users to give to or solicit for such charities.

Existing law has been ineffective at curtailing these problems because the Act is simply outdated. In order to ensure the Attorney General's ability to protect the public, a framework is needed that specifically defines these new online entities and requires them to register with the Attorney General's Registry of Charitable Trusts.

THIS BILL

AB 488 is the result of more than a year of stakeholder negotiations and amendments that continue to refine and improve the bill. The framework AB 488 creates would enable the Attorney General to exercise proper supervision over Internet platform operators. Specifically the bill:

- (1) Defines two new types of entities, "charitable fundraising platforms" and "platform charities" that are subject to the Act.
- (2) Require charitable fundraising platforms to provide meaningful and conspicuous disclosures, promptly distribute donations made through platforms to recipient charities, and prohibit solicitations for charities not in good standing with the Attorney General's Registry.
- (3) Permit some instances of soliciting for a charity without prior consent if certain criteria that safeguard against harm to charities and the public are met.
- (4) Authorize the Attorney General to promulgate necessary regulations regarding donor notification and reporting requirements, and to encourage transparency and accountability.

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