
OLR Bill Analysis

sSB 123 (File 153, as amended by Senate “A” and “B”)*

AN ACT CONCERNING COERCED DEBT.

SUMMARY

This bill prohibits anyone from knowingly making another individual liable for “coerced debt,” which the bill defines as all or part of any unsecured personal, family, or household debt in the name of a debtor who is a domestic violence victim incurred (1) in response to any duress, intimidation, threat of force, force, or undue influence used to specifically coerce the debtor into incurring the debt and (2) on or after January 1, 2025 (§§ 1 & 2).

The bill also imposes specific obligations and responsibilities on, and gives certain rights to, coerced debt “claimants” (e.g., consumer collection agencies, see below). Specifically, if a debtor gives a claimant certain written documentation that a debt is coerced debt, the claimant must pause all collection activities on the debt for at least 30 days, review the documentation and other available information it has, and then continue or end its collection based on the review. Among other things, if a claimant ends collection activities against a debtor, and had given negative information about the debtor to a consumer credit reporting agency, then the claimant must notify the agency to delete the information (§ 3).

Additionally, under the bill and in order to establish that a debt is coerced debt, a debtor may bring an action against a claimant and may assert a cross complaint and take certain other measures in any action brought by a claimant against the debtor to recover the debt (§ 4). If a court determines that a debt is coerced debt, then the individual who knowingly caused the coerced debt is civilly liable to the claimant for all or part of the coerced debt amount and may be civilly liable for any of the claimant’s attorney’s fees and costs in recovering the debt and for any of the debtor’s attorney’s fees and costs related to the court action

(§ 2).

However, if a debt was previously considered and subject to a final judgment in a dissolution of marriage action, the bill prohibits a debtor from (1) using the bill's document submission and review process or requesting the claimant waive or modify the debt, or (2) bringing an action to establish that the debt is coerced debt or asserting a claim or defense of coerced debt. The bill also generally limits using the process or bringing an action to within 10 years after the debt was incurred (§§ 3 & 4).

Lastly, the bill explicitly states that it does not:

1. require a court to order a claimant to refund any money already paid on a debt that is determined to be coerced debt,
2. diminish the rights of a claimant to recover payment for any coerced debt from any individual who coerced a debtor into incurring the coerced debt, or
3. reduce or eliminate any other rights or defenses available to a debtor at law or in equity (§ 4).

*Senate Amendment "A" replaces the original bill (File 153) with substantially similar provisions and some additional changes. Principally, the changes to the original bill include (1) specifying that "claimant" includes consumer collection agencies rather than debt collectors or buyers; (2) using a federally defined term "negative information," instead of "adverse information" to describe the information claimants give credit reporting agencies; (3) removing intentionality from the bill's prohibition (i.e., it now only prohibits knowingly causing coerced debt); (4) revising the debtor notice and claimant review process, generally by requiring debtors to give specific written documentation, rather than a general oral or written notice, and preventing its use if the claimant had already started a legal action; (5) adding a provision that tolls any statute of limitations that may apply to a claimant's claim on the debt for the time that the claimant is temporarily prevented by the bill from starting a legal action on the

debt; (6) expressly allowing debtors and claimants to assert counterclaims or defenses and move to add or join additional parties to legal actions under the bill; and (7) and making a debtor's failure to timely provide certain written notice and documentation to the claimant grounds for dismissing an action without prejudice.

*Senate Amendment "B" replaces Senate Amendment "A" with substantially similar provisions and some further changes that include (1) making minor changes to the "coerced debt" definition; (2) allowing instead of requiring someone who knowingly causes coerced debt to be civilly liable for any of the claimant's attorney's fees and costs in recovering the debt and any of the debtor's attorney's fees and costs related to a court action; (3) adding prohibitions on debtors, if a debt was previously considered and subject to a final judgment in a dissolution of marriage action, (a) using the bill's document submission and review process or requesting the claimant waive or modify the debt or (b) bringing an action to establish that the debt is coerced debt or asserting a claim or defense of coerced debt; (4) generally limiting using the process or bringing an action to within 10 years after the debt was incurred; and (5) removing the express statement that the bill does not reduce or eliminate any other rights or defenses available to a claimant under any other law.

EFFECTIVE DATE: January 1, 2025

§ 1 — DEFINITIONS

Claimant and Claim

Under the bill, a "claimant" is an individual or entity, or a successor or assignee, that has or purports to have a claim against a debtor arising from a coerced debt or an allegedly coerced debt. A "claimant" explicitly includes a consumer collection agency and excludes individuals and entities, and successors and assignees, that caused a claim to arise through duress, intimidation, threat of force, force, or undue influence perpetrated against the debtor. By law, a "consumer collection agency" is generally any person engaged in the business of (1) collecting or receiving payment from a debtor on behalf of a third party, (2) debt buying, or (3) collecting or receiving tax payments.

A “claim” is a right to payment, regardless of whether the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, or equitable.

Debtor and Domestic Violence Victim

A “debtor” is anyone against whom a claimant asserts a claim arising from coerced debt or allegedly coerced debt.

The bill’s provisions apply to coerced debt in the name of a domestic violence victim incurred on or after January 1, 2025. By law and under the bill, “domestic violence” is:

1. a continuous threat of present physical pain or physical injury against a family or household member;
2. stalking, including 2nd degree stalking, of a family or household member;
3. a pattern of threatening, including 2nd degree threatening, of a family or household member or a third party that intimidates the family or household member; or
4. coercive control of a family or household member, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person’s free will and personal liberty (see BACKGROUND).

§§ 1 & 3 — CLAIMANT COLLECTION ACTIVITIES

Written Documentation of Coerced Debt

Generally, under the bill, a claimant must pause all collection activities on a debt identified by a debtor as coerced debt until the claimant has completed a review required by the bill if (1) the debtor gives the claimant specified written documentation and (2) a legal action concerning the debt has not started before the claimant receives the documentation. The bill defines “collection activities” as any activity of a claimant to collect or attempt to collect, directly or indirectly, a debt owed, due, or asserted to be owed or due, including starting or conducting a court action.

Certified Documentation. To qualify for the collection pause under the bill, the debtor must give the claimant documentation, certified by the debtor that includes the following:

1. an identification of the debt as coerced debt;
2. a description of the circumstances under which the allegedly coerced debt was incurred;
3. an express written statement by the debtor disclosing (a) that the debtor did not willingly authorize the use of the debtor's name or personal information to incur the debt, (b) specific facts supporting the debtor's allegation, if available, and (c) the part of the debt that the debtor alleges is coerced debt, if the debtor alleges that only part of the debt is coerced debt;
4. any information known by the debtor, including any credit card number or loan number, that the claimant may use to identify the account associated with the debt and the individual in whose name the debt was incurred; and
5. a telephone number that the claimant may use to contact the debtor to get more information from, or pose questions to, the debtor about the debt, or, if the debtor prefers to communicate with the claimant in writing, a statement by the debtor indicating that the claimant must communicate with the debtor about the debt exclusively in writing and disclosing the debtor's mailing address, email address, or both.

Under the bill, this documentation also includes the identity of and, if known by the debtor, contact information for, the individual whom the debtor alleges coerced the debtor into incurring the debt, unless the debtor signs a sworn statement that disclosing the information is likely to result in abuse to the debtor or any immediate family member of the debtor. However, the debtor must disclose this information if the claimant (1) notifies the debtor that the claimant is ending collection activities against the debtor and releasing the debtor from any liability for the debt and (2) when giving the notice, requests that the debtor

disclose the information. By law, “immediate family member” includes a spouse, child, sibling, parent, grandparent, or grandchild and includes stepparents, stepchildren, stepsiblings, and adoptive relationships (CGS § 36a-485).

Supporting Documentation. In support of the above documentation, the debtor must also attach at least one of the following:

1. a police report,
2. a Federal Trade Commission identity theft report that identifies the debt as coerced debt and not as a debt incurred due to identity theft,
3. a court-issued restraining order or protective order, or
4. a specific document prepared by a qualified third-party professional.

Under the bill, a “qualified third-party professional” is a Connecticut-credentialed domestic violence or sexual assault counselor, psychiatrist, psychologist, clinical social worker, marital and family therapist, or professional counselor.

The document from a qualified third-party professional must:

1. be based on information the professional received while acting in his or her professional capacity;
2. be certified by the professional as specified in the bill (see below); and
3. display the letterhead, address, and telephone number of the (a) office, institution, center, or organization that has engaged or employs the professional regardless of whether he or she is financially compensated or (b) professional if he or she is self-employed.

Certification Requirements. The bill requires that the above certifications be in substantially the following form:

“I declare under penalty of perjury that the representations made herein are true, correct, and contain no material omissions of fact.

Dated at ..., Connecticut, this day of ..., 20...

.... (Signature)”.

Delivery Method. The bill requires the debtor to send the above documentation by certified mail, overnight delivery, or any other delivery method allowing for confirmation of the documentation’s delivery date. The address the debtor uses for this must be the one the claimant provides to the debtor for the purpose of receiving the documentation, or, if the claimant has not provided any address, the claimant’s principal place of business as identified on the secretary of the state’s website. If an address is unavailable through that website, the debtor may use the claimant’s correspondence address.

Claimants’ Duties to Notify Debtors on How and What to Submit

The bill imposes several related duties on claimants when a debtor notifies them about a coerced debt and “requests that the claimant waive or modify such debt.” The bill defines these requests as including a request that a claimant waive, forgive, excuse, write off, not collect, modify, delay, postpone, or enter into a payment plan for a debt or a part of a debt.

Under the bill, if a debtor orally notifies a claimant that all or part of debt being collected is coerced debt and “requests that the claimant waive or modify such debt,” and if the claimant does not permanently stop collection activities on the debt against the debtor, the claimant must notify the debtor, in writing and within 10 days after, that the debtor’s request must be in writing and according to the bill’s above documentation and delivery requirements.

Similarly, if a debtor notifies a claimant in writing that all or part of a debt being collected is coerced debt, “requests that the claimant waive or modify such debt,” but omits any of the required documentation, and if the claimant does not permanently stop collection activities on the debt against the debtor, the claimant must, within 10 days after, give

written notice to the debtor identifying the omitted documentation.

In both circumstances, the claimant must send its written notice to the debtor by certified mail, overnight delivery, or any other delivery method allowing for confirmation of the date on which the notice is delivered. For a period of 30 days after the debtor receives the claimant's notice, the bill prohibits the claimant from starting a legal action to collect the debt but allows it to continue other collection activities. If the claimant does start a legal action during this period, it is grounds for dismissal of the action without prejudice at any time before the entry of judgment.

Claimants' Review and Determination

Within 30 days after a claimant receives the above documentation, the claimant must complete a good-faith review to determine whether the debt is coerced debt after considering all the documentation provided by the debtor and all other relevant information available to the claimant. The bill prohibits the claimant from starting a legal action to collect the debt while completing the review if it did not do so before (1) receiving the documentation or (2) an oral or written notice and request from the debtor as described above.

Additionally, if the claimant previously gave negative information about the debtor to a credit rating agency, the claimant must notify the agency that the debt identified by the debtor is disputed. Under the bill, "negative information" is information concerning a customer's delinquencies, late payments, insolvency, or any form of default (15 U.S.C. § 1681s-2(a)(7)).

Within 10 days after the claimant completes the review, the claimant must notify the debtor, in writing, of the claimant's determination and the good-faith basis for it.

If the claimant determines, in good faith, that the available information establishes that the debt is coerced debt, the claimant must permanently stop its collection activities against the debtor for the coerced debt. If the claimant gave negative information to a credit rating

agency in connection with the coerced debt, it must also notify the agency, within 10 business days after the claimant's determination, to delete the information.

Conversely, if the claimant determines, in good faith, that the available information does not establish that the debt is coerced debt, the claimant may continue its collection activities for the debt after it notifies the debtor, in writing, about its determination.

Prohibitions and Statute of Limitations Tolling

The bill prohibits anyone from inferring or presuming that the debt identified by the debtor is valid or invalid or that the debtor is liable or not liable for the debt based on the claimant's review and determination to end or continue its collection activities for the debt. Additionally, the exercise or non-exercise of any right under the bill is not a waiver of any of the debtor's or claimant's other rights or defenses, including any right or defense that may be asserted against any individual who coerces a debtor into incurring coerced debt.

The bill also prohibits a debtor from using the bill's document submission and review process or requesting the claimant waive or modify a debt (1) if the debt was previously considered and subject to a final judgment in a dissolution of marriage action or (2) 10 years after the debt was incurred.

Additionally, for debts where a debtor has submitted the required documentation to a claimant or given the above oral or written notice, the bill requires that any statute of limitations that may apply to a claimant's claim on the debt be tolled for the time that the claimant is temporarily prevented by the bill from commencing a legal action on the debt.

Lastly, even if a debtor gives the requisite documentation or notification concerning a debt, the bill expressly states that all the above provisions do not apply if a legal action on the debt had started before the claimant received the documentation or notification.

§§ 1 & 4 — COURT ACTIONS

Actions Brought by Debtor

The bill allows a debtor to bring an action against a claimant to establish that a debt is coerced debt within 10 years after the right of action accrues. It requires debtors, at least 30 days before starting an action under the bill or any other action against the claimant in connection with an allegedly coerced debt, to send the claimant (1) a written notice disclosing the debtor's intent to start the action and (2) the written documentation of coerced debt set forth in the bill (see § 3 above). The bill specifies that the 30-day period begins when the claimant receives the debtor's written notice and documentation. Under the bill, the debtor's failure to timely provide these to the claimant is grounds for dismissing the action without prejudice at any time before judgment is entered.

The bill requires that the notice be sent by certified mail, overnight delivery, or any other delivery method allowing for confirmation of its delivery date. The address the debtor uses for this notice must be the one the claimant provides to the debtor for the purpose of receiving the notice, or, if the claimant has not provided any address, the claimant's principal place of business as identified on the secretary of the state's website. If an address is unavailable through that website, the debtor may use the claimant's correspondence address.

The bill prohibits a debtor from starting his or her action if (1) the claimant informs the debtor that it has permanently ended all collection efforts on the debt and notified any credit rating agency that it gave negative information to about the debtor in connection with the coerced debt to delete the information and (2) the debtor receives written notice about this before the 30-day period above expires. The bill explicitly allows a debtor (presumably, after the 30-day period) to start his or her action if he or she receives a written notice disclosing the claimant's good-faith determination that the information available and provided to it under the bill does not establish that the allegedly coerced debt is coerced debt.

The bill requires debtors to attach to any complaint, or counterclaim (see below), by the debtor alleging that a debt is coerced debt the written

documentation of coerced debt set forth in the bill (see § 3 above). Under the bill, failure to do so is grounds for dismissing the action without prejudice at any time before judgment is entered.

Claimant and Debtor Responses to Actions

The bill allows a claimant, in accordance with relevant state civil procedure laws, against whom a debtor brings an action asserting a coerced debt to do the following:

1. move to implead any third party who is or may be liable for the allegedly coerced debt,
2. assert a cross complaint to establish that the debt is not coerced debt,
3. assert a counterclaim or defense to establish that the debt is not coerced debt, and
4. move to add or join in additional parties.

Additionally, in any action brought by a claimant against a debtor to recover a debt, the debtor, in accordance with the same civil procedure laws, may:

1. move to implead any third party who is or may be liable for the allegedly coerced debt,
2. assert a cross complaint to establish that the debt is coerced debt,
3. assert a counterclaim or defense to establish that the debt is coerced debt, and
4. move to add or join in additional parties.

The bill specifies that debtors do not have to send claimants the above notice of intent before asserting such a counterclaim or defense.

Debtor's Judicial Relief

Under the bill and if requested, a debtor may be entitled to the following specified relief if the debtor establishes by a preponderance of

the evidence in an action that a debt is coerced debt:

1. a declaratory judgment that the debtor is not obligated to the claimant for the coerced debt;
2. a judgment in favor of the claimant against the individual who coerced the debtor into incurring the coerced debt so long as that individual has been made a party to the action in accordance with relevant state civil procedure laws and the evidence supports the judgment;
3. an order awarding the debtor attorney's fees and costs, which must be paid by the individual who coerced the debtor into incurring the coerced debt, if that individual has been made a party to the action; and
4. an order requiring the claimant, if the claimant has given negative information to a credit rating agency regarding the debtor in connection with the coerced debt, to notify the agency to delete the information within 10 business days after the issuance of the order, which the bill requires to be entered by the court at the time the court determines that the debt is coerced debt.

Abuse Prevention

The bill requires the court, upon any party's written motion or the court's own motion and in accordance with Connecticut Practice Book provisions, to consider any necessary and appropriate steps to prevent abuse of the debtor or his or her immediate family member including sealing court records, redacting personal identifying information about the debtor or his or her immediate family member that was improperly filed, or directing that any deposition or evidentiary hearing be conducted remotely.

Court Findings

If the court determines that a debt is coerced debt, the bill allows claimants and debtors, at the time the court makes its determination, to move the court to make written findings regarding evidence related to

any individual who allegedly caused the coerced debt to be incurred. The court may do so if the individual has been made a party to the action in accordance with relevant state civil procedure laws and the evidence supports the findings.

Standing and Time Bar for Claimants to Pursue Debt Against Others

The bill explicitly gives claimants legal standing against certain parties if all or part of a claim is established as having arisen from a coerced debt. Specifically, it allows these claimants to use all available rights and remedies to collect, by any lawful means, all or part of the claim from any individual determined by the court to have coerced the debtor into incurring the debt.

The bill restricts when claimants can bring actions to collect coerced debt against an individual who coerced a debtor into incurring the debt. Specifically, claimants must bring these actions within five years of the date a court determines that the individual caused the duress, intimidation, threat of force, force, fraud, or undue influence giving rise to the coerced debt.

BACKGROUND

Coercive Control

By law, “coercive control” includes unreasonably:

1. isolating a family or household member from friends, relatives, or other support;
2. depriving the family or household member of basic necessities;
3. controlling, regulating, or monitoring the family or household member’s movements, communications, daily behavior, finances, economic resources, or access to services;
4. compelling the family or household member by force, threat, or intimidation, including threats based on actual or suspected immigration status to (a) do something they have a right not to do or (b) not do something they have a right to do;

5. committing or threatening to commit cruelty to animals that intimidates the family or household member; or
6. forcing the performance of sex acts or making threats of a sexual nature, including threatened acts of sexual conduct, threats based on a person's sexuality, or threats to release sexual images (CGS § 46b-1).

Family or Household Members

By law, "family or household members" are any of the following, regardless of age:

1. spouses or former spouses;
2. parents or their children;
3. people related by blood or marriage;
4. people not related by blood or marriage living together or who have lived together;
5. people who have a child in common, regardless of whether they are or have been married or have lived together; and
6. people who are or were recently dating (CGS § 46b-38a).

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute
Yea 11 Nay 1 (03/12/2024)

Judiciary Committee

Joint Favorable
Yea 24 Nay 11 (04/12/2024)