
OLR Bill Analysis

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

AN ACT CONCERNING COERCED DEBT.

SUMMARY

This bill prohibits anyone from knowingly making another individual liable for “coerced debt,” which the bill defines as any “debt” (see definition below) incurred in the name of a debtor who is a domestic violence victim in response to any duress, intimidation, threat of force, force, or undue influence used to specifically coerce the debtor into incurring the debt (§§ 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) (§ 3). Additionally, 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 the debtor’s reasonable attorney’s fees and costs in establishing that the debt was coerced (§ 2).

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, as determined by the claimant, has coerced a debtor into incurring the coerced debt;
3. reduce or eliminate any other rights or defenses available to a debtor at law or in equity; or
4. reduce or eliminate any other rights or defenses available to a party determined by the claimant to have coerced the debt (§ 3).

*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; (5) tolling 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) 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; (3) adding prohibitions on debtors, if a debt was previously considered and subject to a final judgment in a divorce action; (4) generally limiting when the bill's process may be used or an action brought 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.

*House Amendment "A" replaces Senate Amendment "B" with substantially similar provisions and makes changes that principally include (1) removing provisions explicitly authorizing and regulating court actions concerning coerced debt, (2) limiting the debt subject to the bill to unsecured credit card debt, (3) amending the underlying bill's definition of "debt," (4) generally expanding the collection suspension period from 30 to 60 days, and (5) limiting use of the bill's collection suspension process to one time for all or part of the same debt.

EFFECTIVE DATE: January 1, 2025

§ 1 — DEFINITIONS

Claimant and Claim

Under the bill, a “claimant” is an entity that has or purports to have a claim against a debtor arising from a coerced debt or an allegedly coerced debt and explicitly includes a consumer collection agency to collect the debt or the entity’s successor or assignee. 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.

The bill defines a “claim” as a right to receive payment of a credit card debt.

Debt

Under the bill, “debt” is all or part of any unsecured credit card debt incurred on or after January 1, 2025, for personal, family, or household use that was (1) not subject to a final judgment in a divorce action or collection matter that took place before the debtor requests that the claimant waive the debt or (2) incurred more than 10 years before the request date.

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 the debtor gives the claimant specified information and documentation. The bill defines "collection activities" as any activity of a claimant to collect or attempt to collect a debt owed, due, or asserted to be owed or due, including starting or proceeding with a court action.

Information and Documentation. To qualify for the collection pause under the bill, the debtor must give the claimant the following information and documentation, certified by the debtor:

1. an identification of the debt alleged to be coerced debt;
2. a description of the circumstances under which the allegedly coerced debt was incurred;
3. an attested to 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 and the individual in whose name the debt was incurred;
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; and

6. any other documents the debtor deems appropriate to support the request.

Under the bill, this information and 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. 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 information, the debtor must also attach at least one of the following:

1. a police report,
2. a court-issued restraining order or protective order, or
3. 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 information and 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’ and Debtors’ Duties

Under the bill, if a debtor orally notifies a claimant that all or part of the debt being collected is coerced debt and “requests that the claimant waive 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 information and documentation and delivery requirements. Under the bill, these are requests that a claimant waive, forgive, excuse, write off, or not collect all or part of a debt.

Additionally, if a legal action brought by the claimant is pending, then the debtor, before sending the information and documentation, must file a notice with the court, on a form prescribed by the judicial branch, informing the court of the review pending with the claimant.

Claimants' Review and Determination

Within 10 days after a claimant receives the above information and documentation, the claimant must (1) pause collection efforts for 60 days or until it completes its investigation, whichever is longer and (2) conduct a good-faith review to determine whether the debt is coerced debt after considering all the information and documentation provided by the debtor and all other relevant information available to the claimant. The bill prohibits the claimant from (1) starting a legal action to collect the debt while completing the review and (2) if an action is pending, proceeding with it while completing the review.

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 basis for it.

If the claimant determines, in good faith, that the available information establishes that the debt is coerced debt, the claimant must grant the debtor's request and permanently stop its collection activities against the debtor for the coerced debt. If a legal action brought by the claimant is pending, the claimant must file a notice with the court informing it of the review's conclusion and the release determination. Additionally, 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. If a legal action brought by the claimant is pending, the claimant must file a notice with the court informing it of the review's conclusion and the resulting determination.

Statute of Limitations Tolling and One-Use Limitation

For debts where a debtor has submitted the required information and documentation to a claimant or given the above oral 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 starting a legal action on any portion of the debt.

The bill also prohibits debtors from using the above process more than one time for all or part of the same 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)