



Senate

General Assembly

File No. 153

February Session, 2024

Substitute Senate Bill No. 123

Senate, March 28, 2024

The Committee on Banking reported through SEN. MILLER of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING COERCED DEBT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2025*) As used in this section and
2 sections 2 to 4, inclusive, of this act:

3 (1) "Claim" means a right to payment, regardless of whether such
4 right is reduced to judgment, liquidated, unliquidated, fixed,
5 contingent, matured, unmatured, disputed, undisputed, legal or
6 equitable;

7 (2) "Claimant" (A) means an individual or entity that has, or purports
8 to have, a claim against a debtor arising from coerced debt or allegedly
9 coerced debt, or such individual's or entity's successor or assignee, (B)
10 does not mean an individual who or entity that, or any successor or
11 assignee of an individual who or entity that, caused a claim to arise
12 through duress, intimidation, threat of force, force or undue influence
13 perpetrated against the debtor, and (C) includes, but is not limited to, a
14 debt collector or a debt buyer;

15 (3) "Coerced debt" means any debt incurred (A) in the name of a
16 debtor who is a victim of domestic violence, as defined in subsection (b)
17 of section 46b-1 of the general statutes, and (B) as a result of any duress,
18 intimidation, threat of force, force or undue influence;

19 (4) "Collection activities" means any activities of a claimant to collect
20 or attempt to collect, directly or indirectly, a debt owed or due or
21 asserted to be owed or due, including, but not limited to, commencing
22 or conducting an action against a debtor in a court of competent
23 jurisdiction;

24 (5) "Credit rating agency" has the same meaning as provided in
25 section 36a-695 of the general statutes;

26 (6) "Debt" means an unsecured debt, or any portion of an unsecured
27 debt, incurred on or after January 1, 2025, for personal, family or
28 household use;

29 (7) "Debtor" means an individual against whom a claimant asserts a
30 claim arising from coerced debt or an allegedly coerced debt;

31 (8) "Immediate family member" has the same meaning as provided in
32 section 36a-485 of the general statutes; and

33 (9) "Qualified third-party professional" means a domestic violence
34 counselor or sexual assault counselor, as those terms are defined in
35 section 52-146k of the general statutes, a psychiatrist licensed under
36 chapter 370 of the general statutes, a psychologist licensed under
37 chapter 383 of the general statutes, a clinical social worker licensed
38 under chapter 383b of the general statutes, a marital and family therapist
39 licensed under chapter 383a of the general statutes and a professional
40 counselor licensed under chapter 383c of the general statutes.

41 Sec. 2. (NEW) (*Effective January 1, 2025*) No individual shall
42 knowingly and intentionally cause another individual to incur coerced
43 debt. Any individual who knowingly and intentionally causes another
44 individual to incur coerced debt shall be civilly liable (1) to the claimant
45 for the amount of the coerced debt or the portion of any debt determined

46 by a court to be coerced debt, (2) for any attorney's fees and costs
47 incurred by the claimant in recovering such debt, and (3) for any
48 attorney's fees and costs incurred by the debtor in an action commenced
49 under section 4 of this act.

50 Sec. 3. (NEW) (*Effective January 1, 2025*) (a) (1) If a debtor provides oral
51 or written notice to a claimant that identifies a debt as coerced debt, the
52 claimant shall immediately cease all collection activities concerning
53 such debt that are directed toward the debtor for a period of not less
54 than thirty days. The claimant shall not recommence such collection
55 activities until the claimant has completed a review pursuant to
56 subsection (c) of this section. Such review shall be completed if the
57 claimant receives:

58 (A) Documentation that identifies the debt as coerced debt, describes
59 the circumstances under which the allegedly coerced debt was incurred
60 and is in the following form:

61 (i) A police report;

62 (ii) A Federal Trade Commission identity theft report that identifies
63 the debt as coerced debt and not as a debt incurred due to identity theft;

64 (iii) A restraining order or protective order issued by a court of
65 competent jurisdiction; or

66 (iv) A document prepared by a qualified third-party professional that
67 (I) is based on information the qualified third-party professional
68 received while acting in such qualified third-party professional's
69 professional capacity, (II) is certified by the qualified third-party
70 professional in the manner specified in subdivision (2) of this
71 subsection, and (III) displays the letterhead, address and telephone
72 number of the office, institution, center or organization that has engaged
73 or employs the qualified third-party professional regardless of whether
74 such qualified third-party professional is financially compensated, or
75 the letterhead, address and telephone number of such qualified third-
76 party professional if such qualified third-party professional is self-

77 employed;

78 (B) A document in which the debtor certifies, in the manner set forth
79 in subdivision (2) of this subsection, that the debt is coerced debt and
80 that each material fact included in such document is true; and

81 (C) If requested by the claimant:

82 (i) A copy of the debtor's driver's license, identification card or any
83 other identification document that supports the allegation that the debt
84 is coerced debt;

85 (ii) An express written statement by the debtor disclosing (I) that the
86 debtor did not willingly authorize the use of the debtor's name or
87 personal information to incur such debt, (II) specific facts supporting the
88 debtor's allegation, if available, and (III) if the debtor alleges that only a
89 portion of such debt is coerced debt, the portion of such debt that the
90 debtor alleges is coerced debt;

91 (iii) Any information known by the debtor, including, but not limited
92 to, any credit card number or loan number, that the claimant may use to
93 identify the account associated with such debt and the individual or
94 individuals in whose name such debt was incurred;

95 (iv) The identity of the individual or individuals whom the debtor
96 alleges coerced the debtor into incurring such debt and contact
97 information for such individual or individuals, if the debtor knows such
98 contact information, unless the debtor signs a sworn statement that
99 disclosing such information is likely to result in abuse to the debtor or
100 any immediate family member of the debtor, except the debtor shall
101 disclose such information in the event the claimant (I) gives notice to the
102 debtor that the claimant is ceasing collection activities under this section
103 and releasing the debtor from any liability for such debt, and (II) upon
104 giving such notice, requests that the debtor disclose such information;
105 and

106 (v) A telephone number that the claimant may use to contact the
107 debtor to obtain additional information from, or pose questions to, the

108 debtor with regard to such debt, or, if the debtor prefers to communicate
109 with the claimant in writing, a statement by the debtor indicating that
110 the claimant shall communicate with the debtor with regard to such
111 debt exclusively in writing and disclosing the debtor's mailing address,
112 electronic mail address or both.

113 (2) Each certification required under subdivision (1) of this subsection
114 shall be in substantially the following form:

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

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

118 ... (Signature)".

119 (b) If a debtor orally notifies a claimant that a debt being collected is
120 coerced debt, the claimant shall notify the debtor, in writing and not
121 later than thirty days after receiving such oral notification from the
122 debtor, that the debtor's notification must be in writing and in
123 accordance with subsection (a) of this section. If a debtor notifies a
124 claimant in writing that a debt being collected, or a portion of a debt
125 being collected, is coerced debt, but omits any item required by
126 subsection (a) of this section, and if the claimant does not cease
127 collection activities concerning such debt, the claimant shall provide
128 written notice to the debtor identifying such omitted item.

129 (c) (1) Not later than the thirtieth day after a claimant receives the
130 documentation provided in accordance with subsection (a) of this
131 section, the claimant shall:

132 (A) Perform a good faith review to determine whether the debt
133 identified by the debtor in the documentation provided in accordance
134 with subsection (a) of this section is coerced debt after considering all
135 information provided by the debtor and all other relevant information
136 available to the claimant; and

137 (B) If the claimant has previously furnished adverse information

138 about the debtor to a credit rating agency, notify such credit rating
139 agency that the debt identified by the debtor in the documentation
140 provided in accordance with subsection (a) of this section is disputed.

141 (2) Not later than the thirtieth day after the claimant completes the
142 review pursuant to subdivision (1) of this subsection, the claimant shall
143 notify the debtor, in writing, of the claimant's determination and the
144 good faith basis for such determination.

145 (3) (A) If the claimant determines, in good faith, that the available
146 information establishes that the debt identified by the debtor in the
147 documentation provided in accordance with subsection (a) of this
148 section is coerced debt, the claimant shall cease collection activities
149 against the debtor concerning such coerced debt.

150 (B) A claimant that ceases collection activities under subparagraph
151 (A) of this subdivision and does not recommence such collection
152 activities shall, if the claimant has furnished adverse information to a
153 credit rating agency regarding the debtor in connection with the coerced
154 debt, notify such agency to delete such information. The claimant shall
155 provide such notice not later than the tenth business day after the
156 claimant makes such determination.

157 (4) If the claimant determines, in good faith, that the available
158 information does not establish that the debt identified by the debtor in
159 the documentation provided in accordance with subsection (a) of this
160 section is coerced debt, the claimant may recommence collection
161 activities concerning such debt. The claimant shall not recommence such
162 collection activities until the claimant notifies the debtor, in writing, of
163 such good faith determination.

164 (d) No inference or presumption that the debt identified by the debtor
165 in the documentation provided in accordance with subsection (a) of this
166 section is valid or invalid or that the debtor is liable or not liable for such
167 debt shall arise on the basis of the claimant's determination, made after
168 the review performed pursuant to subsection (c) of this section, to cease
169 or recommence collection activities concerning such debt. The exercise

170 or nonexercise of any right under this section is not a waiver of any other
171 right or defense of the debtor or claimant, including, but not limited to,
172 any right or defense that may be asserted against any individual or
173 individuals who coerce a debtor into incurring coerced debt.

174 Sec. 4. (NEW) (*Effective January 1, 2025*) (a) (1) (A) A debtor, in
175 accordance with the provisions of the Connecticut Practice Book, may
176 bring an action against a claimant to establish that a debt is coerced debt.

177 (B) In any such action, the claimant, in accordance with section 52-
178 102a of the general statutes, may:

179 (i) Move to implead any third party who is or may be liable for the
180 debt that is alleged to be coerced debt; and

181 (ii) Assert a cross complaint against any individual or entity that is or
182 may be liable for the debt that is alleged to be coerced debt.

183 (2) In any action brought by a claimant against a debtor to recover a
184 debt, the debtor, in accordance with section 52-102a of the general
185 statutes, may:

186 (A) Assert a counterclaim or defense to establish that such debt is
187 coerced debt;

188 (B) Move to implead any third party who is or may be liable for the
189 debt that is alleged to be coerced debt; and

190 (C) Assert a cross complaint to establish that such debt is coerced
191 debt.

192 (b) (1) Not later than thirty days before commencing an action
193 pursuant to subparagraph (A) of subdivision (1) of subsection (a) of this
194 section, or any other action against a claimant in connection with
195 allegedly coerced debt, a debtor shall send to the claimant: (A) A written
196 notice disclosing the debtor's intent to commence such action against the
197 claimant; and (B) the items set forth in subsection (a) of section 3 of this
198 act. For purposes of this subdivision, the thirty-day period shall

199 commence when the claimant receives the written notice required under
200 this subdivision.

201 (2) The debtor shall send the written notice required under
202 subparagraph (A) of subdivision (1) of this subsection by certified mail,
203 overnight delivery or any other delivery method allowing for
204 confirmation of the date on which such notice is delivered to an address
205 the claimant provides to the debtor for the purpose of receiving such
206 notice, or, if the claimant has not provided any such address, to the
207 claimant's principal place of business as identified on the Secretary of
208 the State's Internet web site. If an address is unavailable through such
209 Internet web site, the debtor may use the claimant's correspondence
210 address.

211 (3) (A) A debtor shall not commence an action under subparagraph
212 (A) of subdivision (1) of subsection (a) of this section, or any other action
213 against a claimant in connection with an allegedly coerced debt, if:

214 (i) The claimant informs the debtor that the claimant has permanently
215 ceased all efforts to collect on the debt identified in the written notice
216 provided pursuant to subparagraph (A) of subdivision (1) of this
217 subsection; and

218 (ii) The debtor receives written notice of such permanent cessation
219 before the expiration of the thirty-day period described in subdivision
220 (1) of this subsection.

221 (B) A debtor may commence an action under subparagraph (A) of
222 subdivision (1) of subsection (a) of this section, or any other action
223 against a claimant in connection with an allegedly coerced debt, if the
224 debtor receives a written notice pursuant to subdivision (4) of
225 subsection (c) of section 3 of this act disclosing the claimant's good faith
226 determination that the available information does not establish that
227 such allegedly coerced debt is coerced debt.

228 (c) A debtor shall attach the items set forth in subsection (a) of section
229 3 of this act to any complaint by the debtor alleging that a debt is coerced

230 debt.

231 (d) If a debtor establishes by a preponderance of the evidence in an
232 action described in subsection (a) of this section that a debt is coerced
233 debt, the debtor may, if requested, be entitled to the following relief:

234 (1) A declaratory judgment that the debtor is not obligated to the
235 claimant for such coerced debt;

236 (2) An order dismissing any cause of action brought by the claimant
237 to enforce or collect on the coerced debt from the debtor or, if only a
238 portion of the debt at issue is established as coerced debt, an order
239 directing that the complaint and judgment, if any, in such action be
240 amended to reflect only the portion of the debt that is not coerced debt;

241 (3) A judgment in favor of the claimant against the individual who
242 coerced the debtor into incurring such coerced debt, provided the
243 individual who coerced the debtor into incurring such coerced debt has
244 been joined as a party to the action in accordance with the provisions of
245 the Connecticut Practice Book and the evidence supports such a
246 judgment;

247 (4) An order awarding the debtor attorney's fees and costs, which
248 shall be paid by the individual or individuals who coerced the debtor
249 into incurring the coerced debt, if such individual or individuals have
250 been made a party or parties to the action; and

251 (5) An order requiring the claimant, if the claimant has furnished
252 adverse information to a credit rating agency regarding the debtor in
253 connection with the coerced debt, to notify such agency to delete such
254 information not later than the tenth business day after the issuance of
255 such order. Such order shall be entered by the court at the time the court
256 determines that the debt is coerced debt.

257 (e) The court shall, in accordance with the provisions of the
258 Connecticut Practice Book, take appropriate steps necessary to prevent
259 abuse of the debtor or an immediate family member of the debtor.

260 (f) The claimant or debtor may move the court to make written
 261 findings regarding evidence related to any individual who allegedly
 262 caused the coerced debt to be incurred, provided any such individual
 263 has been joined as a party to the action in accordance with the provisions
 264 of the Connecticut Practice Book and the evidence supports such
 265 findings.

266 (g) Where some or all of a claim is established as having arisen from
 267 coerced debt, a claimant shall have standing, and may use all available
 268 rights or remedies, to collect by any lawful means such claim, or portion
 269 of such claim, from any individual determined by the court to have
 270 coerced a debtor into incurring the debt, or against any individual who
 271 used or possessed any money, goods, services or property obtained
 272 through such coerced debt.

273 (h) No action by a claimant to collect coerced debt from any
 274 individual who coerced a debtor into incurring such debt shall be
 275 brought but within five years of the date when it is determined,
 276 pursuant to a proceeding in a court of competent jurisdiction, that such
 277 individual caused the duress, intimidation, threat of force, force or
 278 undue influence giving rise to such coerced debt.

279 (i) Nothing in this section or sections 1 to 3, inclusive, of this act shall:

280 (1) Require a court to order a claimant to refund any moneys already
 281 paid on a debt that is determined to be coerced debt;

282 (2) Diminish the rights of a claimant to recover payment for coerced
 283 debt from any individual who coerced a debtor into incurring such
 284 coerced debt; or

285 (3) Reduce or eliminate any other rights or defenses available to a
 286 debtor or claimant pursuant to any other law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2025	New section

Sec. 2	January 1, 2025	New section
Sec. 3	January 1, 2025	New section
Sec. 4	January 1, 2025	New section

Statement of Legislative Commissioners:

Throughout the bill, "a coerced debt" was changed to "coerced debt" and "an allegedly coerced debt" was changed to "allegedly coerced debt" for consistency; in Section 2, "individual who causes" was changed to "individual who knowingly and intentionally causes" for internal consistency; in Section 2(1), "debt, or a portion of the coerced debt, determined" was changed to "debt or the portion of any debt determined" for clarity; in Section 3(a)(1), "such" was added after "recommence" for clarity, and "section if" was changed to "section. Such review shall be completed if" for clarity; in Section 3(a)(1)(B), "a debtor" was changed to "the debtor" and "a debt" was changed to "the debt" for internal consistency; in Section 3(a)(1)(C)(i), "such allegation" was changed to "the allegation that the debt is coerced debt" for clarity and consistency with standard drafting conventions; in Section 3(a)(1)(C)(ii)(III), "a statement disclosing" was deleted for internal consistency; in Section 3(c)(1), "items required by" was changed to "documentation provided in accordance with" for consistency; in Sections 4(b)(2) and 4(b)(3)(A)(i), "subdivision (1) of this subsection" was changed to "subparagraph (A) of subdivision (1) of this subsection" for accuracy; and in Section 4(d)(4), "the debt" was changed to "the coerced debt" for clarity.

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill concerns private parties and does not result in a fiscal impact. It (1) prohibits anyone from knowingly and intentionally making another individual liable for coerced debt and (2) specifies responsibilities and rights of coerced debt claimants.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 123*****AN ACT CONCERNING COERCED DEBT.*****SUMMARY**

This bill prohibits anyone from knowingly and intentionally 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) because of any duress, intimidation, threat of force, force, or undue influence 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., debt collectors or debt buyers, see below). Specifically, if a debtor gives a claimant certain notice that a debt is coerced debt, the claimant must pause all collection activities on the debt for at least 30 days and may have to engage in a review of specific documents the bill establishes to identify coerced debt. (It is unclear from the bill who must provide these documents to the claimant and what triggers the claimant’s review of them.) Among other things, if a claimant ends collection activities against a debtor, and had given adverse 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 all or part of a debt is coerced debt, then the individual who knowingly and intentionally caused the coerced debt is civilly liable (1) to the claimant for the debt amount, (2) for the claimant’s

attorney's fees and costs in recovering the debt, and (3) for the debtor's attorney's fees and costs related to the court action (§ 2).

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 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 or claimant under any other law (§ 4).

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 debt collector or a debt buyer 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.

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 a coerced debt or an 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

Notice of Coerced Debt

Under the bill, if a debtor provides oral or written notice to a claimant that identifies a debt as coerced debt, the claimant must immediately cease all collection activities on the debt that are directed toward the debtor for at least 30 days. The bill defines "collection activities" as any activities of a claimant to collect or attempt to collect, directly or indirectly, a debt owed or due or asserted to be owed or due, including starting or conducting an action against a debtor in a court of competent jurisdiction.

Presumably, under the bill, if the claimant does not receive certain written documentation after the above notice, the claimant may proceed with the collection activities, but this is not clear. The bill prohibits the claimant from restarting collection activities until after completing a specific type of review within a separate time period (see below), but the bill only seems to require this review if the claimant receives certain types of written documentation. However, the bill does not expressly authorize or require anyone to provide this documentation, and so it is not clear how this requirement would be triggered.

Other provisions of the bill concerning what must be done after the

claimant receives the debtor's notice imply that debtors must provide the documentation, but they are not clear on this. Specifically, under the bill, if a debtor orally notifies a claimant that a debt being collected is coerced debt, the claimant must, within 30 days after receiving the oral notice, notify the debtor in writing that the debtor's notification must be in writing and "in accordance with," presumably, the bill's document provisions. Additionally, if a debtor notifies a claimant in writing that all or part of a debt being collected is coerced debt, but "omits any item required by," presumably, the bill's document provisions, and if the claimant does not end collection activities for the debt, the claimant must give written notice to the debtor identifying the omitted item.

Written Documentation

The written documentation that requires a review to be done by the claimant specifically includes (1) at least one form of documentation identifying the debt as coerced debt; (2) a certification from the debtor that the debt is coerced debt; and (3) certain types of additional documentation or information if the claimant requests them.

Identifying Coerced Debt. Under the bill, the documentation that identifies the debt as coerced debt must also describe the circumstances under which the allegedly coerced debt was incurred. The documentation must be a:

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

Under the bill, a "qualified third-party professional" is a properly

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.

Debtor Certification. Under the bill, this document must include a certification from the debtor as specified in the bill (see below) that the debt is coerced debt and that each material fact included in the document is true.

Additional Documentation and Information. Under the bill, the additional documents and information include the following if they are requested by the claimant:

1. a copy of the debtor's driver's license, identification card, or any other identification document that supports the allegation that the debt is coerced debt;
2. 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;

3. 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 or individuals in whose name the debt was incurred; and
4. 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, the additional information also includes the identity of and, if known by the debtor, contact information for, any individuals 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 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).

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)".

Claimants' Review and Determination

Under the bill and within 30 days after a claimant receives the above documentation, the claimant must perform a good-faith review to determine whether the debt is coerced debt after considering all information provided (presumably by the debtor) and all other relevant information available to the claimant. Additionally, if the claimant previously gave adverse information about the debtor to a credit rating agency, the claimant must notify the agency that the debt identified by the debtor is disputed.

Within 30 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 end its collection activities against the debtor for the coerced debt. If the claimant gave adverse 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.

Interpretation Prohibitions

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 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.

§§ 1 & 4 — COURT ACTIONS

Actions Brought by Debtor

The bill allows a debtor, in accordance with Connecticut Practice Book provisions, to bring an action against a claimant to establish that a debt is coerced debt. It requires debtors, no later than 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 requires that the notice be sent by certified mail, overnight delivery, or any other delivery method allowing for confirmation of the date on which the notice is delivered. 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 (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 by the debtor alleging that a debt is coerced debt the written documentation of coerced debt set forth in the bill (see § 3 above).

Claimant and Debtor Responses to Actions

The bill allows a claimant, in accordance with relevant state civil procedure law, 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 debt that is alleged to be coerced debt and
2. assert a cross complaint against any individual or entity that is or may be liable for the debt that is alleged to be coerced debt.

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

1. assert a counterclaim or defense to establish that the debt is coerced debt,
2. move to implead any third party who is or may be liable for the debt that is alleged to be coerced debt, and
3. assert a cross complaint to establish that the debt is coerced debt.

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. an order dismissing any cause of action brought by the claimant to enforce or collect on the coerced debt from the debtor or, if only a part of the debt at issue is established as coerced debt, an order directing that the complaint and judgment, if any, in the action be amended to reflect only the part of the debt that is not coerced debt;
3. 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 joined as a party to the action in accordance with Connecticut Practice Book provisions and the evidence supports the judgment;

4. an order awarding the debtor attorney's fees and costs, which must be paid by the individual or individuals who coerced the debtor into incurring the coerced debt, if that individual or individuals have been made a party or parties to the action; and
5. an order requiring the claimant, if the claimant has given adverse 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, in accordance with Connecticut Practice Book provisions, to take any necessary and appropriate steps to prevent abuse of the debtor or his or her immediate family member.

Court Findings

The bill allows claimants and debtors 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 joined as a party to the action in accordance with Connecticut Practice Book provisions 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 or against any individual who used or possessed any money, goods, services, or property obtained through the coerced 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)