NEW YORK CITY BAR

REPORT ON LEGISLATION BY THE DOMESTIC VIOLENCE COMMITTEE AND THE SEX AND LAW COMMITTEE

A.3038-A **M. of A. Rosenthal**
S.1353-A **Sen. Cleare**

AN ACT to amend the general business law, in establishing a right of action for claims arising out of coerced debts

THIS BILL IS APPROVED

I. PURPOSE

The Domestic Violence Committee and the Sex and Law Committee of the New York City Bar Association (the "City Bar") support the enactment of the NYS Coerced Debt Bill A.3038-A/S.1353-A (the "Coerced Debt Bill").

This legislation aims to address certain financial abuse by amending the New York General Business Law to protect domestic violence (DV) survivors from being held liable for debt created through fraud, coercion, or abuse.

Our committees include attorneys for non-profit organizations that represent domestic violence survivors in civil courts and family courts and who have a broad range of experience with the issue addressed by the bill. The City Bar supports the Coerced Debt Bill because this legislation will protect survivors of domestic violence and others who have become victims of economic abuse by providing them with a right of action.

II. REASON FOR SUPPORT

A. What the Coerced Debt Bill would do

The New York State Coerced Debt Bill would prohibit creditors from enforcing consumer debts incurred through fraud, duress, intimidation, threat, force, identity theft, or similar economic abuse, and would establish a right of action for debtors to seek relief.

About the Association
The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

B. Why a legal remedy for coerced debt is needed

Domestic violence does not always involve physical abuse.[1] Financial abuse is prevalent in relationships involving domestic violence,[2] and includes behaviors that control the survivor's access to money, employment, and/or their ability to acquire, use, or maintain financial resources.[3] Coerced debt is a form of financial abuse and refers to any non-consensual, credit-related transaction demanded or coerced by an abusive partner.[4] It is a pervasive problem for many survivors. Over one in three survivors receiving legal services related to domestic violence in New York City also have a consumer debt legal issue.[5]

In some cases, an abusive partner may pressure, threaten, or manipulate a DV survivor into taking out debt in their own name during the abusive relationship. In other cases, DV survivors may learn the abusive partner used their identity to obtain loans, credit cards, or other debts taken out in their names without their knowledge or consent, thus burdening them with debt even after escaping the abusive relationship. These fraudulent debt obligations often inflict severe financial harm, trigger a host of related consequences and ultimately undermine survivors' ability to attain safety and rebuild their lives.[6]

Coerced debt not only affects survivors' credit ratings, which itself is a profound repercussion, but also creates barriers to housing, employment, and basic necessities (including as a result of wage garnishment and bank account freezes).[7] Each of these, independently and collectively, perpetuate the control of an abuser even after the abusive relationship ends.

Despite such evident and long-lasting harm caused by this pervasive issue, currently New York lacks a legal remedy for coerced debt. And when victims of coerced debt seek remedies

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[1] U.S. Department of Justice (2025).

[2] National Network to End Domestic Violence, "*About Financial Abuse*," *available at* https://nnedv.org/content/about-financial-abuse/ (All websites last accessed on April 3, 2025).

[3] *Id*.

[4] National Domestic Violence Hotline, http://www.thehotline.org.

[5] Diane Johnston & Divya Subrahmanyam, Fordham University School of Law, CAMBA Legal Services, Inc., & The Legal Aid Society, Denied! How Economic Abuse Perpetuate Homelessness for Domestic Violence Survivors (September 2018).

[6] Digital Library National Consumer Law Center, "*Surviving Debt*," *available at* https://library.nclc.org/book/surviving-debt/introduction-5.

[7] Fordham University, "*HOW ECONOMIC ABUSE PERPETUATES HOMELESSNESS FOR DOMESTIC VIOLENCE SURVIVORS*" (September 2018), *available at* https://www.fordham.edu/media/home/schools/school-of-law/pdfs/denied-accessible.pdf; Institute for Women's Policy Research, "Economic Abuse Fact Sheet 2013," *available at* https://iwpr.org/wp-content/uploads/2020/12/ESS-Project-Economic-Abuse-Fact-Sheet-2016.pdf; The Legal Aid Society, "What You Need to Know About Domestic Violence and Consumer Debt," *available at* https://legalaidnyc.org/get-help/consumer-debt-taxes/what-you-need-to-know-about-domestic-violence-and-consumer-debt/.

directly with lenders, lenders frequently require police reports from DV survivors as proof of abuse[8]—documentation that is often unavailable or impossible to obtain.

This leaves survivors burdened with fraudulent debts, while the abuser—the very person who initiated the fraudulent loan, used the funds, and created the contractual obligation—is not a party to the debt collection process. The current law's inability to prevent abusers from evading fraud initially, and accountability subsequently, results in domestic violence survivors and creditors being left to resolve the consequences of the abuser's actions.

C. Existing law does not address coerced debt

There are no effective remedies against coerced debt under New York laws. As stated above, lenders require proof of the coerced nature of the debt, which is often difficult for a survivor to obtain. Moreover, requesting that debt be assigned to the abusive spouse in a matrimonial action is not always possible or efficient for a number of reasons, including:

a) Not all victims of coerced debt are married to their abuser and have access to a divorce action;

b) Divorce actions are costly and often inaccessible to middle-income and low-income litigants (there is no "right to counsel" for these types of matters);

c) The parties are often considered equally responsible for marital debt, which means a survivor may be made responsible for at least 50% of the debt whether incurred in their name or not;

d) Even when a survivor obtains an order assigning the entirety of the debt to the abusive spouse, this does not exonerate the survivor from litigation against creditors; and

e) Consumer law and matrimonial law proceed on parallel tracks preventing consumer relief in a matrimonial action.

D. Laws to address coerced debt have been adopted in other states

California's Civil Code recognizes a cause of action for victims of coerced debt and allows for an injunction to restrain the creditor from holding or attempting to hold the alleged debtor personally liable on the claim, or from enforcing a judgment related to the claim against the alleged debtor.[9]

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[8] Empire Justice Center, "*Addressing Credit Reporting Issues for Survivors of Domestic Violence*" (January 17, 2010) "Providing documentation of identity theft in order to dispute credit reporting can be particularly challenging. Ideally, victims of identity theft should file a police report and obtain an Identity Theft Report at that time." *Available at* https://empirejustice.org/resources_post/addressing-credit-reporting-issues-for-survivors-of-domestic-violence/.

[9] California Civil Code § 1798.97.2.

Texas has included coerced debt in the statutory definition of identity theft in the state's penal code.[10]

Maine passed a law that provides a set of procedures for debt collectors and credit reporting agencies to follow when consumers present evidence of economic abuse, including the cessation of collection activities.[11]

III. CONCLUSION

It is critically important that domestic violence survivors have access to a remedy when coerced into debt so that they can regain control of their lives and attain safety. Other states are beginning to recognize the problem of coerced debt and provide a remedy for survivors, and New York should do the same. The NYS Coerced Debt Bill would ensure that lenders ultimately pursue restitution only from the party responsible for the debt—the abuser—rather than the domestic violence survivor. For these reasons, the Domestic Violence Committee and the Sex and Law Committee support the Coerced Debt Bill and urge its passage.

Domestic Violence Committee
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[10] Texas Penal Code 32.51

[11] H.P 553-L.D.748, An Act To Provide Relief to Survivors of Economic Abuse