



**National
Consumer Law
Center**

*Fighting Together
for Economic Justice*

Model State Coerced Debt Law

**By Andrea Bopp Stark and Carla
Sanchez-Adams**

National Consumer Law Center®

May 2024



National
Consumer Law
Center
*Fighting Together
for Economic Justice*

ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services; and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state governments and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

NCLC.ORG

© Copyright 2024, National Consumer Law Center, Inc.
All rights reserved.

ABOUT THE AUTHORS

Andrea Bopp Stark is a senior attorney at the National Consumer Law Center Boston office focusing on writing and teaching about fair debt collection practices and mortgage servicing issues. Andrea is also involved in advocating for foreclosure prevention and fair debt collection policies on the state and federal level. Andrea is a contributing author to NCLC's *Fair Debt Collection, Home Foreclosures*, and *Mortgage Servicing and Loan Modifications* legal manuals. Previously, Andrea was a partner at Molleur Law Office in Biddeford, Maine, and worked as an attorney for Northeast Legal Aid in Lawrence, Mass., where she was one of NCLC's first recipients of the John G. Brooks fellowship. Andrea holds a B.A. from the University of Vermont and obtained her JD and Masters of Social Work from Boston College.

Carla Sanchez-Adams is a senior attorney at the National Consumer Law Center, focusing on emerging issues in banking and payment systems, fintech, and high-cost lending. She is a contributor to NCLC's *Consumer Banking and Payments Law* treatise. Before joining NCLC, Carla was a managing attorney with Texas RioGrande Legal Aid, Inc. (TRLA), assisting low-income Texans on issues related to debt collection, credit reporting, auto fraud, debt management, and other consumer related disputes. She led a team of advocates who utilized a holistic approach to achieving economic security for victims of crime, including survivors of family violence, sexual assault, and human trafficking. Carla is board certified by the Texas Board of Legal Specialization in Consumer and Commercial Law and is a board member for the National Association of Consumer Advocates (NACA). She serves on the American Bar Association's Commission on Domestic and Sexual Violence and the Texas State Bar's Consumer and Commercial Law Section's Council. She received her B.A. in politics and economics from New York University and her J.D. from the University of Texas School of Law.

ACKNOWLEDGEMENTS

The authors wish to acknowledge National Consumer Law Center colleagues **Carolyn Carter** and **April Kuehnhoff** for their contributions to this model law.

TABLE OF CONTENTS

INTRODUCTION	1
I. Model Stand-Alone Law	1
<i>Legislative Findings [if customary in your state]</i>	1
Section 1. Title and Scope	2
Section 2. Definitions: For purposes of this act, the following definitions apply	2
Section 3. Creditor’s Conduct Pursuant to a Debtor’s Statement of Coerced Debt	4
Section 4. Civil Legal Remedies	7
Section 5. The Effective Date of this title/chapter/act is	8
II. Options for Adding Language to Existing State Laws	8
<i>Add to Existing State Credit Reporting Law</i>	8
<i>Add to Existing State Debt Collection Practices Statute</i>	9
<i>Add to Existing Identity Theft (ID Theft) State Law</i>	9

INTRODUCTION

This model law provides two options for drafting: (1) a complete, free-standing model law, and (2) language you can add to existing laws in your state. The stand-alone model law can be introduced in its entirety and is appropriate for states that do not have any existing statutes or regulations that could be amended to provide relief for victims of economic abuse or coerced debt. The second option suggests language that can be added to an existing state law regarding credit reporting, debt collection practices, or identity theft. Amending existing laws may be easier than trying to pass a comprehensive bill with new language.

The scope of the free-standing model law is limited to coerced debt and not economic abuse, though some states may want to consider broadening the scope to economic abuse. Economic abuse encompasses more than coerced debt, as coerced debt is just one form of economic abuse. For example, economic abuse covers debts that a victim may have incurred on their own but then could not repay because of the acts of an abuser. However, coerced debt only covers debts that were obtained through fraud or coercion. As a result, a law targeting debts incurred by economic abuse would protect a lot more abusive conduct. If you choose to broaden the scope to economic abuse, a suggested definition can be found below in Section II. You will also need to make appropriate changes to other definitions referenced in Section 2 and Section II that utilize the term coerced debt instead of economic abuse, for example, “Statement of Coerced Debt”.

Because economic abuse, and coerced debt specifically, is often linked to domestic violence, it is imperative to prioritize the safety of the debtor and other family members. Asserting a claim for coerced debt could result in retribution and harm to the debtor by the perpetrator of the coerced debt. The Act is crafted with these concerns in mind and includes provisions allowing courts to take steps to protect the victim’s safety, but more precautions can be proposed in any bill if needed.

I. MODEL STAND-ALONE LAW

Legislative Findings [if customary in your state]

- a) Economic abuse is a serious issue impacting vulnerable populations. Economic abuse occurs in 98% of abusive relationships and is the number one reason victims of abuse stay in or return to abusive relationships.
- b) Coerced debt is a form of economic abuse and an avenue for abusers to limit the economic independence of an individual. Coerced debt occurs when an abuser utilizes coercive control or identity theft to incur debt in the name of an individual. Coerced debt can occur via threat, force, or fraud in the context of ongoing domestic abuse, which can be physical, emotional, or financial.
- c) Though the term coerced debt was originally observed in the context of domestic violence, the same dynamic exists within other vulnerable populations such as older Americans, foster youth, and victims of human trafficking.
 - i. In cases of elder abuse, family members, caretakers, and other trusted individuals use the dynamic of power and control to obtain credit without the elder’s consent (identity theft) or by coercing or misleading the elder to obtain credit.

- ii. In cases of elder abuse, family members, caretakers, and other trusted individuals use the dynamic of power and control to obtain credit without the elder's consent (identity theft) or by coercing or misleading the elder to obtain credit.
- iii. Perpetrators of human trafficking use coerced debt as a form of control to exploit and trap victims into engaging in unwanted, unlawful acts and labor. The traffickers may obtain credit in the victim's name without their knowledge or force the victim to obtain credit.
- iv. The debt and poor credit score resulting from economic abuse more broadly and coerced debt more specifically can have long-term consequences, creating barriers to education, housing, and employment opportunities.
- v. Coerced debt can subject an individual to ruined credit, substantial payment expectations, debt collection, and even bankruptcy.

WHEREFORE it is the public policy of this State to provide protections and remedies for victims of economic abuse (and/or) coerced debt.

Section 1. Title and Scope

- a) **Title.** This Act shall be known and cited as the "An Act to Provide Civil Relief from Coerced Debt" ("Act"). The Act will be construed liberally and remedially to effectuate its purpose of providing protections and remedies for victims of Coerced Debt.
- b) **Scope.**
 - i. This Act does not apply to debt secured by real property [as defined in state statute.]
 - ii. This Act does not diminish the rights of a Creditor to recover payment for a Coerced Debt from the Perpetrator of Coerced Debt.
 - iii. This Act does not reduce or eliminate any other rights or defenses available to a Debtor or Creditor. However, in the event of an inconsistency between those laws and this Act, this Act prevails to the extent of the inconsistency.
 - iv. The provisions of this Act shall apply to, inter alia, any Creditor who attempts to evade its applicability by any device, subterfuge, or pretense whatsoever.
- c) **Anti-waiver provision.** No agreement between a Debtor and any other person may contain any provision that constitutes a waiver of any right conferred or cause of action created by this Act, and any such waiver is void.
- d) **Severability.** Should a court decide that any provision of this Act is unconstitutional, preempted, or otherwise invalid, that provision shall be severed, and such decision shall not affect the validity of the Act other than the part severed.

Section 2. Definitions: For purposes of this act, the following definitions apply:

- a) "Adequate Documentation" includes, but is not limited to, any of the following documents:
 - i. A police report that identifies the Coerced Debt, or a portion thereof, and describes the circumstances under which the Coerced Debt was incurred.
 - ii. A Federal Trade Commission identity theft report.
 - iii. An order from a court of competent jurisdiction setting forth findings of Coerced Debt.

- iv.** Written verification from a “Qualified Third Party” to whom the Debtor reported the Coerced Debt, which shall be satisfied by any sworn statement that includes the following:
 - (a)** information identifying that the party is a Qualified Third Party as defined in section 2(h),
 - (b)** the letterhead, address, and telephone number of such Qualified Third Party's employer or, if self-employed, of such Qualified Third Party, and
 - (c)** information identifying the Coerced Debt, or a portion thereof, and describing the circumstances under which the Coerced Debt was incurred.
- v.** Any other document that demonstrates a person was subject to Coerced Debt and which supports a Statement of Coerced Debt as defined in section 2 (i).
- b)** "Coerced Debt," means a Debt or a portion thereof that was incurred because of identity theft, fraud, duress, intimidation, threat, force, coercion, manipulation, undue influence, misinformation, or the non-consensual use of the Debtor's personal identifying information within the context of [domestic violence], [dating violence], [family violence], and [abuse in later life] as defined in state law.
- c)** “Creditor” means:
 - i.** an individual or entity to whom a Debt is owed, due, or asserted to be due or owed;
 - ii.** any assignee for value;
 - iii.** a debt collector [as defined by state law]; or
 - iv.** a debt buyer [as defined by state debt collection law].
- d)** “Debt” means an obligation or an alleged obligation to pay money.
- e)** “Debtor” means an individual who owes or who is alleged to owe a Debt.
- f)** “Perpetrator of Coerced Debt” means an individual who causes or is alleged to have caused Coerced Debt to be incurred by another.
- g)** "Qualified third party" means any:
 - i.** law enforcement officer;
 - ii.** physician, physician assistant, psychiatrist, psychologist, social worker, nurse, therapist, or clinical professional counselor all of whom are licensed to practice in any state;
 - iii.** person who advises or provides services to persons regarding domestic violence, family violence, human trafficking, or abuse of children, the elderly, or dependent adults; or
 - iv.** member of the clergy of a church, religious society, or denomination.
- h)** “Statement of Coerced Debt” means a statement made by a Debtor to a Creditor orally or in writing that conveys:
 - i.** enough information about the Debt or portion thereof to allow a Creditor to identify the account associated with the Debt;

- ii. that the Debtor did not willingly authorize the use of the Debtor's name, account, or personal information for incurring the Debt or portion thereof, or a claim that a Debt or portion thereof is a Coerced Debt;
- iii. if the debtor knows how the debt was incurred, facts describing how the debt was incurred; and
- iv. the Debtor's preferred contact method and information such as a phone number, email address, physical address, or safe address for either the Debtor or a third party whom the Debtor designates to receive information about the Coerced Debt.

Section 3. Creditor's Conduct Pursuant to a Debtor's Statement of Coerced Debt

- a) Within ten business days of receipt of a Debtor's Statement of Coerced Debt, the Creditor must notify any consumer reporting agency to which the Creditor furnished adverse information about the Debtor that the Debtor disputes the adverse information.
- b) If the consumer provides both a Statement of Coerced Debt as defined by Section 2(i) and Adequate Documentation as defined by Section 2(a) to the Creditor, the Creditor shall take the following actions within 10 business days of receipt:
 - i. cease all attempts to collect the Coerced Debt from the Debtor;
 - ii. refrain from filing any lawsuit to collect the Coerced Debt or, if a collection action has already been filed, dismiss the action as against the Debtor unless the Creditor is challenging that the Debt is not Coerced Debt in that action pursuant to Section 4(b);
 - iii. cease all garnishment of funds from the Debtor;
 - iv. return to the Debtor any payments that were made by the Debtor or received as part of a garnishment of funds from the Debtor on the Coerced Debt;
 - v. notify the Debtor that it is ceasing all attempts to collect the Debt from the Debtor based on the Debtor's claim of Coerced Debt. The notice shall be provided to the Debtor using the Debtor's preferred contact method as specified in Section 2(i) subsection (iv). The Creditor shall inform the Debtor of the option to receive the notice in writing;
 - vi. contact any consumer reporting agency to which it furnished information about the Debtor and the Coerced Debt and request they delete such information; and
 - vii. refrain from selling the Debt or transferring it for consideration. If the Creditor does not own the Debt and is collecting the Debt for another, then the Creditor must notify the owner of the Debt that it has ceased collection activities against the Debtor because the Debt is a Coerced Debt.
- c) If the Debtor provides to a Creditor a statement including some but not all the information required of a Statement of Coerced Debt or provides an oral Statement of Coerced Debt without Adequate Documentation, the Creditor shall notify the Debtor within 5 business days, using the Debtor's preferred contact method, of the additional information needed to complete the Statement of Coerced Debt and of the Adequate Documentation requirement. If the Creditor provides this notice orally, the Creditor shall inform the Debtor of the option to receive the notice in writing.
- d) A Creditor who provides the Debtor with Model Form A-1, in both English and Spanish, complies with the requirement in Section 3 (c) to notify the Debtor of the additional information needed to complete the Statement of Coerced Debt and of the Adequate Documentation.

- e) Any written notices under this section must be provided to all Debtors in both English and Spanish. If the Creditor provides oral interpretation services or otherwise communicates with the Debtor in any language other than English, the creditor must provide the notice, orally or in writing, required under this subsection to the Debtor in their preferred language.
- f) Not later than 180 days after the date of the enactment of this section, the [insert name for state bank regulator] shall publish Model Form A-1 in English and Spanish.
- g) [The state bank regulator] may publish Model Form A-1 into any other language [the state bank regulator] determines is the first language of a significant number of consumers in the State. This determination shall be, at the discretion of [the state bank regulator], based on the numerical percentages of all consumers in the State for whom English or Spanish is not a first language or in a manner consistent with any regulations promulgated by the [state bank regulator] for this purpose.

Model Form A-1 for Creditors to Provide to Debtors

[Creditor Name
Address
Email address
Telephone number
Website URL where this form can be filled out online]

[Debtor's Name]

[Debtor's preferred contact information: debtor may provide a phone number, email address, physical address, or the address of a third party]

You have given us information about a debt that may have been taken out because someone used your personal information without your permission or because someone intimidated, threatened, forced, or manipulated you into taking out this debt.

For example, an abusive partner could have taken out a credit card or loan in your name without your knowledge or permission or pressured you into taking out credit to buy a car, television, computer, or other item and threaten you with harm if you refused.

Questions: To stop collection of this debt, you need to answer the questions below. If you do not know the answer, you can explain why you don't know the answer.

1. Did you sign for or agree to the debt?
2. If you did sign or agree to the debt, was it because someone threatened you or used intimidation, force, manipulation, theft, or other forms of control to take out the debt in your name? If yes, please describe how it happened.
3. If you did not sign or agree to the debt, do you know who used your information to take out the debt? If yes, please describe.

4. What is your preferred contact method and contact information? You can provide a phone number, email address, physical address, safe address, or the contact information of another trusted person you want to receive information for you because you are concerned about your safety.

Supporting Documentation: Please include **any one of the documents below** that show that the debt was taken out by someone who you were in an abusive relationship with and threatened you or used intimidation, force, manipulation, theft, or other forms of control to take out the debt in your name.

You only need to send one, but you can provide more than one.

- i. a police report that includes information about the debt and how it was taken out;
- ii. a Federal Trade Commission identity theft report that you can complete yourself online at [idtheft.gov](https://www.ftc.gov/identity-theft);
- iii. a court order that includes information about the debt and how it was taken out;
- iv. A written, sworn statement from a third party you talked with about this debt. The statement should include who they are, where they work, their contact information and information you shared with them about the debt and how it was taken out. The third party can be a:
 1. Police officer or any other law enforcement officer;
 2. Physician, physician assistant, psychiatrist, psychologist, social worker, nurse, therapist, or clinical professional counselor who is licensed to practice in any state;
 3. Someone who advises or provides services to people regarding domestic violence, family violence, human trafficking, or abuse of children, the elderly, or dependent adults; or
 4. Member of the clergy of a church, religious society, or denomination.
- v. Any other document such as [a divorce decree, restraining order, protection from abuse order] or other document that includes information about the debt and how it was taken out.

We need to receive your answers to the questions above and at least one document supporting your claim before we stop collecting on the Debt.

Within 10 days after we receive this information, we will:

- i. Stop all attempts to collect the Coerced Debt from you;
- ii. Notify you in writing that we are stopping all attempts to collect the Debt from you; and
- iii. Contact the consumer reporting agencies to which we gave information about you and the Coerced Debt and request they remove the information from your credit report.

Alternatively, we also have the right to challenge your claim in court.

If you have questions, please contact us at: Creditor's name, mailing address, phone number, and email address.

For more information, see [Citation to this Act]

- h)** In connection with any communication related to a Debtor's Statement of Coerced Debt, the Creditor:
 - i.** shall only use the contact information the Debtor provides in the Statement of Coerced Debt to contact the Debtor and shall not use any other contact information;
 - ii.** shall not disclose the contact information the Debtor provides in the Statement of Coerced Debt to any other person, including, but not limited to, the Perpetrator of Coerced Debt or joint account holders, without the Debtor's express written authorization; and
 - iii.** may request that the Debtor provide the identity of the Perpetrator of Coerced Debt, if known, and contact information for that person if known.

Section 4. Civil Legal Remedies

- a)** A Debtor is not liable for Coerced Debt. A Debtor may raise as a defense in any forum and by any allowable procedure that a particular Debt, or portion thereof, is Coerced Debt.
- b)** The Debtor establishes a prima facie case that a debt is Coerced Debt by providing a Statement of Coerced Debt and Adequate Documentation. If the Creditor has a good faith basis to believe that the Debt is not Coerced Debt, the Creditor may seek a court order in a court of competent jurisdiction declaring the debt is not a Coerced Debt. In such a suit, the Creditor has the burden to disprove the Debt is Coerced Debt.
- c)** A person shall not cause another to incur Coerced Debt. A person who is found to be a Perpetrator of Coerced Debt by a court of competent jurisdiction shall be civilly liable to the Creditor. The perpetrator of Coerced Debt may also be civilly liable to Debtor to the extent that the Debtor made payments or incurred costs related to the Coerced Debt.
- d)** A Creditor may use all legal rights and remedies to collect the Coerced Debt from the Perpetrator of Coerced Debt.
- e)** In any court action, the presiding court shall take appropriate steps necessary to protect the Debtor or an immediate family member of the Debtor from an alleged perpetrator of coerced debt by, including, but not limited to, sealing court records, redacting personally identifiable information about the Debtor and any immediate family member of the Debtor, and directing that any deposition or evidentiary hearing be conducted remotely.
- f)** Any creditor who fails to comply with any provision of Section 3 is liable to the Debtor in an amount equal to the sum of –
 - i.** Any actual damages sustained by the Debtor as a result of such noncompliance;
 - ii.** **(A)** In the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$5,000 per violation indexed annually for inflation; or

- (B) In the case of a class action,
- (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and
 - (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 indexed annually for inflation or 1 per centum of the net worth of the debt collector;
 - iii. Court costs and a reasonable attorney’s fee as determined by the court; and
 - iv. Punitive damages if the court finds that a Creditor’s noncompliance was willful.
- g) The provisions of this Act apply to lawsuits filed in this state, regardless of whether a related contract provides that the law of another state is chosen.

Section 5. The Effective Date of this title/chapter/act is:

II. OPTIONS FOR ADDING LANGUAGE TO EXISTING STATE LAWS

Add to Existing State Credit Reporting Law

- a) If a consumer asserts that a Debt or any portion of a Debt is the result of [Economic Abuse] or [Coerced Debt] and provides a Statement of Coerced Debt and Adequate Documentation to a consumer reporting agency as defined by [state credit reporting law citation], the consumer reporting agency shall investigate the Debt pursuant to [state credit reporting law provision]. If after the investigation it is determined that the Debt is the result of [Economic Abuse] or [Coerced Debt], the consumer reporting agency shall remove any reference to the Debt or any portion of the Debt determined to be the result of [Economic Abuse] or [Coerced Debt] from the consumer's credit report.

Also add definition of “Statement of Coerced Debt,” “Adequate Documentation,” and either “Coerced Debt” from Section 2 above or “Economic Abuse” instead of Coerced Debt as explained in the Introduction.

Suggested definition for Economic Abuse:

“Economic abuse” means behavior that is coercive, deceptive, manipulative, or restrains, sabotages, or unreasonably controls a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, threat of harm, force, fraud, or manipulation to:

- a) restrict an individual’s access to money, assets, credit, or financial information;
- b) steal or unfairly use an individual’s economic resources, including money, assets, and credit;
- c) use an individual’s credit or property without authorization;
- d) prevent an individual from leaving their residence to attend school or employment;
- e) exploit the individual's resources for the offender’s personal gain;

- f) withhold from an individual physical resources such as food, clothing, necessary medications or shelter;
- g) cause or attempt to cause an individual to be financially dependent by maintaining control over the individual's financial resources; or
- h) exert undue influence over a person's financial behavior or decisions, including forcing default on joint or other financial obligations; exploiting powers of attorney, guardianship, or conservatorship; or failing or neglecting to act in the best interest of the individual.

Add to Existing State Debt Collection Practices Statute

- a) If a consumer asserts that a Debt or any portion of a Debt is the result of [Economic Abuse] or [Coerced Debt] and provides a Statement of Coerced Debt and Adequate Documentation to the Debt collector, the Debt collector shall cease collection of the Debt or any disputed portion of the Debt alleged to be owed by the consumer as a result of [Economic Abuse] or [Coerced Debt]. [See 32 M.R.S. § 11014 (2-A) (2022)]
- b) The consumer establishes a prima facie case that the debt is Coerced Debt by providing a Statement of Coerced Debt and Adequate Documentation. If the Creditor has a good faith basis to believe that the Debt is not Coerced Debt, the Creditor may file suit in a court of competent jurisdiction to seek a court order declaring the debt is not a Coerced Debt. In such a suit, the Creditor has the burden to disprove the Debt is Coerced Debt.
- c) A Creditor may use all legal rights and remedies to collect the Coerced Debt from the Perpetrator of Coerced Debt. [See Section 4 above]

Also add definition of “Statement of Coerced Debt,” “Adequate Documentation,” “Perpetrator of Coerced Debt,” and either “Coerced Debt” from Section 2 or “Economic Abuse”.

Add to Existing Identity Theft (ID Theft) State Law

- a) A person may not obtain, possess, transfer, or use the personal identifying information [as defined under state law] of another person without that person’s consent or effective consent to obtain a good, a service, insurance, an extension of credit, or any other thing of value in that other person’s name.
- b) For purposes of this section, “effective consent” includes consent given by a person legally authorized to act on behalf of the person from whom consent is required. Consent is not effective if:
 - i. induced by force, threat, fraud, or coercion; or
 - ii. given by a person who by reason of youth, mental illness, or intellectual disability is known by the actor to be unable to make reasonable decisions.
- c) It is unlawful to collect or attempt to collect a debt that is a result of identity theft.



**National
Consumer Law
Center**

NATIONAL HEADQUARTERS

7 Winthrop Square, Boston, MA 02110
(617) 542-8010

NCLC.ORG

WASHINGTON OFFICE

Spanogle Institute for Consumer Advocacy
1001 Connecticut Ave, NW, Suite 510
Washington, DC, 20036
(202) 452-6252