

ECONOMIC JUSTICE FOR SURVIVORS COLLECTIVE

Support Memo S.1353/A.3038 Cleare/Rosenthal

February 12, 2025

We, the undersigned coalition of anti-violence and consumer advocates, urge you to support, **S.1353/A.3038, a bill that provides relief from coerced debt to survivors of domestic violence, elder abuse, human trafficking, and abuse by caretakers.** Coerced debt is a devastating form of economic abuse that prevents survivors from seeking safety and causes financial harm long after physical abuse ends. This can result in lifelong financial instability, housing insecurity, and continuous retraumatization.

Economic abuse and coerced debt are pervasive and harmful. Economic abuse involves “behavior or tactics that control a person’s ability to acquire, use, and maintain economic resources.”¹ It includes interfering with a survivor’s ability to go to work or school; prohibiting a survivor’s access to their bank account or money from their own paycheck; committing tax or public benefits fraud using the survivor’s stolen identity; or leaving the survivor with coerced debt. It can cause financial devastation and traumatize survivors years after they leave the abusive relationship.

In a nationwide study, 99% of survivors reported experiencing economic abuse within domestic violence, and 52% of DV survivors had coerced or fraudulent debt, with 46% reporting credit damage.² In fact, the number one reason why survivors do not leave abusive relationships is that they cannot afford to leave for a safer situation.³

Within the larger umbrella of economic abuse, coerced debt is debt that a person in a position of trust inflicts on a survivor, either by taking it out in a survivor’s name without their knowledge or consent, or by pressuring, threatening, intimidating, or manipulating a survivor into taking it out in their

¹ Adrienne E. Adams et al., *Development of the Scale of Economic Abuse*, 14(5) *Violence Against Women Journal* 563 (2008).

² Amy Durrenre, Kirkley Doyle, & Sonya Passi, *Making Safety Affordable: Intimate Partner Violence is an Asset Building Issue*, 2020, at 11 <https://www.freefrom.org/wp-content/uploads/2021/06/Making-Safety-Affordable.pdf> (last visited December 6, 2022).

³ Amy Durrenre, Kirkley Doyle, & Sonya Passi, *supra* note 2, at 3.

own name. Coerced debt occurs not only within intimate partner violence, but also in other abusive relationships of trust, e.g. between a child and their parent or guardian, or an elderly or disabled person and their caretaker, and in human trafficking contexts. The nature of these relationships allows the harm-doer easy access to the survivor’s personal identifying information, personal devices, and mail. Coercion frequently includes exploitation of immigration status, age, or marital status, and actual and implied threats against the survivor and their loved ones, including children, friends, family members, and pets. Coerced debt may include credit card, tax, and public benefits fraud, and pressuring or manipulating a survivor into signing an auto loan or lease.

Coerced debt results in an “economic ripple effect” for survivors and their families, forcing them to choose between returning to an abusive situation or living in poverty.⁴ In New York City, more than one in three survivors who seek domestic violence-related legal services also have a consumer debt issue.⁵ Coerced debt and the resulting credit damage significantly interfere with survivors’ ability to obtain housing, credit, financial stability, and, in some cases, employment. Consumer debt judgments may lead to wage garnishment and bank account restraint, leaving survivors unable to afford basic necessities.

Economic abuse and coerced debt disproportionately impact Black, Indigenous and Persons of Color (BIPOC), immigrant, Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ+) people, as well as people with disabilities. This is because of systemic discrimination and inadequate resources and services to address the forms of oppression that survivors may experience. For example, the 2023 Movement Advancement Project’s (MAP) LGBTQI+ Economic and Financial (LEAF) national survey showed the majority (57%) of LGBTQI+ people reported a household income of less than \$50,000 per year, compared to 36% of adults

⁴ See Sara J. Shoener & Erika Sussman, *Economic Ripple Effect of IPV: Building Partnerships for Systemic Change*, Domestic Violence Report (2013); see also Sara Wee, Teal Inzunza, Marisa Menna, Blair Dorosh-Walther, Naomi Young, Britt Reid, Aditi Bhattacharya, Erika Sussman, Lorena Kourousias, Madeline Garcia Bigelow, Melissa Correa, Michelle Cameo, *Reinvesting in Economic Justice, Equity, and Solidarity for Survivors in New York City: A Survivor-Centered Policy Platform & Recommendations for Coerced Debt, Housing, Public Benefits & Solidarity Economy* (2022) https://csaj.org/wp-content/uploads/2022/09/NYC-Survivor-Economic-Equity-Platform_FINAL-4.pdf (last visited April 5, 2023).

⁵ CAMBA Legal Services, Fordham Law School Feerick Center for Social Justice & The Legal Aid Society, *Denied: How Economic Abuse Perpetuates Homelessness for Domestic Violence Survivors* (2018). https://www.fordham.edu/download/downloads/id/11883/denied_how_economic_abuse_perpetuates_homelessness_for_domestic_violence_survivors.pdf (last visited December 6, 2022).

nationwide.⁶ Further, credit cards used almost entirely for survival were the largest source of debt for respondents in the survey. Survivors at intersections of systemic discrimination are particularly vulnerable to the consequences of economic abuse.

The low-income clients served by our organizations are often “judgment-proof” and unlikely to ever pay off coerced debts on their own. A national survey of survivors found that an average of \$15,936 in coerced debt is incurred yearly in their names.⁷ Providing relief to survivors from coerced debts of a few thousand dollars will have a relatively limited impact on financial institutions, which the proposed legislation allows to go after harm-doers to pay the debts, while opening up new conditions of possibility for survivors to seek safety. This strengthens New York’s economy through decreased long-term reliance on public benefits, shelter, and social and legal services.

Existing law falls short on addressing the issue of coerced debt and survivors’ resulting liabilities and damaged credit. Identity theft may be raised as a consumer debt defense, but the New York legal definition of identity theft does not include the wide range of behaviors and tactics typical of economic abuse resulting in coerced debt.⁸ While survivors of intimate partner or family violence may seek civil orders of protection based on “family offenses” under the law, including identity theft, such orders place restrictions on the behavior of the individual who caused the harm, but do not relieve survivors from liability to the creditor.⁹ Likewise, while the Domestic Relations Law (DRL) empowers courts in matrimonial matters to consider domestic violence in making determinations about equitable distribution of assets and debts, divorce judgments cannot relieve survivors from liability to creditors.¹⁰

⁶ Movement Advancement Project, *The LGBTQI+ Economic and Financial (LEAF) Survey* (2023) <https://www.mapresearch.org/file/MAP-LEAF-Survey-Report-2023.pdf>. Similarly, in 2021, NYC Anti Violence Project’s (AVP) Economic Empowerment Program reported that 19% of participants - all survivors of Intimate Partner Violence including Economic Violence, Sexual Violence and Hate Violence - self-identified as Trans and Gender Non Conforming (TGNC), and 60% were people of color. 75% of participants who disclosed their income status were surviving off less than \$30,000 per year. Of those, 56% were surviving off less than \$10,000 per year.

⁷ FreeFrom, *Prioritizing Financial Security in the Movement to End IPV: A Roadmap* (2021) https://www.freefrom.org/wp-content/uploads/2021/07/Prioritizing_Financial_Security_Report.pdf (last visited 3/29/2023).

⁸ See New York Penal Law §§ 190.77, 190.78, 190.79, 190.80, 190.80-a, 190.80-b; see also New York General Business Law § 380-s.

⁹ See New York Family Court Act § 812.

¹⁰ See New York Domestic Relations Law § 236(5)(d)(14).

Survivors may also prefer to protect their safety and wellbeing by *not* taking legal actions under the DRL or Family Court Act naming the person who abused them as a party.

While federal consumer financial protection laws require creditors and debt collectors to investigate fraud claims and limit or eliminate a consumer's liability in cases of unauthorized use and identity theft,¹¹ none require releasing survivors from liability for coerced debt. Similarly, the federal Fair Credit Reporting Act provides procedures to dispute and block identity theft information from appearing on a credit report,¹² but it does not require removal of coerced debts from credit reports except where the debt was incurred as a result of human trafficking.¹³

The proposed legislation provides critical relief. The undersigned organizations are proud to support S.1353/A.3038. This bill provides critical economic relief and justice for survivors by amending the General Business Law to prohibit creditors from collecting a consumer debt incurred because of economic abuse and fraud, and to establish a right of action by the survivor/putative debtor for relief against creditors. Provisions in the bill seeking to rectify existing injustices include:

Providing a path for survivors to dispute coerced debts with creditors.

S.1353/A.3038 permits survivors to dispute coerced debt and requires creditors to cease collection activities and stop reporting the tradeline to credit reporting agencies if, upon investigation, they find that debt is coerced. The bill sets procedures and timelines for disputes, as well as a list of adequate documentation of coerced debt. This gives clarity to survivors and creditors alike while ensuring integrity in the dispute procedure. A dispute procedure outside of and preceding litigation is essential for survivors. New York State faces a severe shortage of free consumer legal services. For example, in New York City, over 90% of consumer debt defendants and child support litigants

¹¹ For protections under the Truth in Lending Act, *see* 15 U.S.C. §§ 1643, 1666. For protections under the Fair Debt Collection Practices Act, *see* 15 U.S.C. §§ 1692e(5), 1692g.

¹² *See* 15 U.S.C. §§ 1681c-2, 1681i.

¹³ *See* Reg. V, 12 C.F.R. § 1022.142.

are unrepresented.¹⁴ Even fewer legal services attorneys are cross-trained to provide consumer, tax, and bankruptcy law services that are trauma-informed and that consider survivors' unique safety needs and other points of intersection with the legal system.

Creating a cause of action and defense to consumer credit actions based on coerced debt. If a dispute of coerced debt does not result in a creditor stopping collection activities, S.1353/A.3038 permits the survivor to appeal this decision, and ultimately to bring a lawsuit against the creditor for a declaratory judgment that the debt is coerced, and the survivor is not liable for it. It also designates coerced debt as an affirmative defense in consumer credit actions. Finally, the bill creates an explicit cause of action for creditors to go after harm-doers who cause debt for repayment of the obligation. Coerced debt presents particular challenges under existing law, which assumes that fully informed parties freely enter into contracts and only generally provides relief only on the wrongdoing of one of the contracting parties or in cases of identity theft. Especially in the digital era, where consumers more seldom apply for credit in person, third-party harm-doers frequently use threats and intimidation to force survivors to incur debt. And because of abuse dynamics, when those who experience coerced debt are subject to collection attempts or consumer credit lawsuits, it is often impossible for them to hold third parties who caused the harm accountable. The new defense and causes of action created by S.1353/A.3038 rectify gaps in existing law and address the harmful realities of coerced debt.

Ensuring survivor safety. Both legal proceedings and dealing with consumer financial products and services present dangers to survivors of violence due to risks that confidential location and contact information will be made available to harm-doers. S.1353/A.3038 provides robust procedures that ensure survivor safety in both disputes and litigation. These include directing courts to seal court records or order remote depositions upon a survivor's request, specifying that those who cause coerced debts are not necessary parties in coerced debt litigation involving the survivor, and requiring creditors to use a survivor's self-identified safe contact information in relation to disputes.

¹⁴ Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York 29 (2022) https://ww2.nycourts.gov/sites/default/files/document/files/2019-10/18_ATJ-Comission_Report.pdf (last visited December 6, 2022).

By passing S.1353/A.3038, New York State will join a growing national movement to ensure economic justice for survivors of domestic violence. In recognition of the significant barriers to safety created by economic abuse for survivors and their families, other states including California,¹⁵ Texas,¹⁶ Maine,¹⁷ Minnesota,¹⁸ and Connecticut¹⁹ have already enacted laws providing relief from coerced debts to survivors of domestic violence. Notably, this new state litigation has not resulted in a flood of new litigation brought by debtors in the state courts but has rather served as a protection from collection efforts brought by creditors. Since California passed its coerced debt legislation in 2022, the only litigation that has been filed pursuant to it have been cases where survivor debtors assert coerced debt as an affirmative defense in a debt collection proceeding initiated by the creditor. And the federal government recently provided a similar form of relief to survivors of human trafficking by enacting the 2021 Debt Bondage Repair Act and amendments to Regulation V,²⁰ which prohibit credit reporting agencies from reporting debts that result from trafficking upon receipt of a survivor’s proof of identity, a statement identifying the account(s) that resulted from trafficking, and a determination from any of a wide range of entities that the person is a victim of trafficking.

We urge the New York State Legislature to pass S.1353/A.3038 to address the harmful effects of coerced debt, empower survivors to take control of

¹⁵ California Senate Bill 975 goes into effect July 1, 2023 and created a defense, counterclaim, and cause of action against a creditor, allowing debtors to notify creditors that a debt was coerced and requiring creditors to cease collection activities https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB975 (last visited March 30, 2023).

¹⁶ See Texas Penal Code 32.51 including coerced debt in the definition of identity theft; *see also* Texas House Bill 3259 which amended the Texas Business & Commerce Code to mirror the penal code definition of coerced debt.

¹⁷ “Economic abuse” was already defined in other areas of Maine law. Maine was able to build upon those definitions to create protections in the context of debt collection and credit reporting: “An Act To Provide Relief to Survivors of Economic Abuse” incorporated an existing statutory non-exhaustive list of acceptable documents as the evidentiary standard. *See* Maine Revised Annotated Statutes §§ 1310-H(2-A, 3), 4002(3-B), 4007(1), 11014(2-A) https://legislature.maine.gov/legis/bills/bills_129th/chapters/PUBLIC407.asp (last visited March 30, 2023); *see also* Maine Civil Court Procedure § 6001 https://legislature.maine.gov/legis/bills/bills_129th/chapters/PUBLIC407.asp (last visited March 30, 2023).

¹⁸ Minnesota’s coerced debt law was passed in 2023 as part of the 2744 Omnibus Commerce Appropriations bill and amended in 2024. The law establishes a notification process and cause of action for alleged debtors to pursue relief from coerced debt, including a declaratory judgment that a debt was coerced and an injunction against a creditor preventing them from collecting a coerced debt from the person who was coerced. *See* Minn. Stat. 332.71-332.75.

¹⁹ Connecticut’s “Act Concerning Coerced Debt” was signed into law in 2024 establishing a process for debtors to notify a creditor that a debt is coerced and a cause of action to determine whether a debt was coerced. *See* Conn. Pub. Act No. 24-77 (2024).

²⁰ C.F.R. § 1022.142.

their financial lives, and help countless survivors and families in their journey to safety and healing.

For more information, please contact the Economic Justice for Survivors Collective nyc_survivor_ej@csaj.org. The Economic Justice for Survivors Collective is composed of representatives of the following organizations: CAMBA Legal Services, Her Justice, The Legal Aid Society, Safe Horizon, Urban Resource Institute, Anti-Violence Project, and the Center for Survivor Agency & Justice.

And to learn more about the economic harm of interpersonal violence, please see the linked report [Reinvesting in Economic Justice, Equity & Solidarity for Survivors in New York City](#), co-authored in October 2022 by a number of this memo’s signatories.²¹ The passage of S.1353/A.3038 would actualize the report’s critical coerced debt policy recommendations grounded in the lived experiences of hundreds of survivors and advocates across NYC. **The report also provides a broad policy platform in the areas of housing, public benefits, and solidarity economies for survivors.** Please contact the Economic Justice for Survivors Collective for more information.

We are pleased to have the support of the following organizations in our coalition of anti-violence and consumer advocates who have signed onto this memo in support of S.1353/A.3038:

NYC Anti-Violence Project	NYLAG	Queens Volunteer Lawyers Project, Inc.	Close Rosies
Safe Horizon	Office of Council Member Tiffany Caban	NYS Coalition Against Domestic Violence	The Legal Aid Society Queens Neighborhood Office
Urban Resource Institute	Violence Intervention Program	UnLocal	District Council 37 Municipal Employees Legal Services
Center for Survivor Agency & Justice	Sakhi for South Asian Women	Northern Manhattan Improvement Corporation	Restore NYC

²¹ Sara Wee, et al, *supra* note 4 (the organizations represented by the co-authors are the Center for Survivor Agency & Justice, New York City Anti-Violence Project, Safe Horizon, CAMBA Legal Services, Her Justice, Mixteca Organization, Inc., Urban Justice Center’s Domestic Violence Project, Urban Resource Institute, & the Violence Intervention Project).

Legal Aid Society	Hope's Door	Access Justice Brooklyn	New Destiny Housing
CAMBA	Survivor Advocacy Center of the Finger Isles	Her Justice	Project Guardianship
Womankind	The Korean American Family Service Center	Domestic Violence Project at Urban Justice Center	Center for Safety & Change
Center for Elder Law & Justice	Volunteer Lawyers Project of CNY, Inc.	Voices of Women	Sanctuary for Families
Shalom Taskforce	HELP R.O.A.D.S	Jahajee Sisters	Fearless! Hudson Valley, Inc.
Fordham Law School Feerick Center for Social Justice	Allen Women's Resource Center	Consumer Reports	New Yorkers for Responsible Lending

The Lesbian, Gay, Bisexual & Transgender Community Center

We are also pleased to have the support of the following individuals:

Olga Rodriguez-Vidal, Vice President for Shelter Operations at Safe Horizon	Ann Goldweber, Professor of Clinical Education, Director, Consumer Justice for the Elderly: Litigation Clinic, St. John's University School of Law-	Donna Dougherty JASALSEJ	Aminta Kilawan-Narine, Founder & Executive Director, South Queens Women's March
Professor Gina M. Calabrese, Consumer Justice for the Elderly: Litigation Clinic, St. John's Univ. Law School	Dr. Rosanna Bellini, Director of Research at Clinic to End Tech Abuse	Aaron Granoski	Wren Longno
Naomi Jackson	Gali Davar	Baileigh Colerick	Lauren Manley
John McCullough	Lanita ward-jones	Jamie Pytlik	Kelly Bowhay
Terence Adams			