

HOUSE BILL No. 2754

By Committee on Judiciary

Requested by Representative Ward on behalf of the Kansas Coalition Against
Sexual & Domestic Violence

2-6

1 AN ACT concerning debt; enacting the providing civil relief from coerced
2 debt act; providing protections and remedies for victims of certain
3 debts constituting a coerced debt because of actions by another
4 individual within the context of domestic violence.

5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) Sections 1 through 4, and amendments thereto, shall be
8 known and may be cited as the providing civil relief from coerced debt act.

9 (b) This act shall be construed liberally and remedially to effectuate
10 its purpose of providing protections and remedies for victims of coerced
11 debt.

12 (c) The provisions of this act are severable. If any portion of this act
13 is held by a court to be unconstitutional or invalid or the application of any
14 portion of this act to any person or circumstance is held by a court to be
15 unconstitutional or invalid, the invalidity shall not affect other portions of
16 this act that can be given effect without the invalid portion or application,
17 and the applicability of such other portions of this act to any person or
18 circumstance remains valid and enforceable.

19 Sec. 2. As used in sections 1 through 4, and amendments thereto:

20 (a) "Act" means the providing civil relief from coerced debt act.

21 (b) "Adequate documentation" includes, but is not limited to, any of
22 the following documents:

23 (1) A police report that identifies the coerced debt, or a portion
24 thereof, and describes the circumstances under which the debt was
25 incurred;

26 (2) a federal trade commission identity theft report;

27 (3) an order from a court of competent jurisdiction setting forth
28 findings of economic abuse;

29 (4) written verification from a qualified third party to whom the
30 debtor reported the coerced debt, which shall be satisfied by any sworn
31 statement that includes the following:

32 (A) Information identifying that the party is a qualified third party;

33 (B) the letterhead, address and telephone number of such party's
34 employer or, if self-employed, of such party; and

1 (C) information identifying the coerced debt, or a portion thereof, and
2 describing the circumstances under which the debt was incurred; and

3 (5) any other document that demonstrates a person was subject to
4 economic abuse and supports a statement of coerced debt.

5 (c) "Coerced debt" means a debt, or a portion thereof, that was
6 incurred because of the following within the context of domestic violence
7 as defined in K.S.A. 21-5111, and amendments thereto: Identity theft;
8 fraud; duress; intimidation; threat; force; coercion; manipulation; undue
9 influence; misinformation; or the nonconsensual use of the debtor's
10 personally identifiable information.

11 (d) "Creditor" means:

12 (1) An individual or entity to whom a debt is owed, due or asserted to
13 be due or owed;

14 (2) any assignee for value;

15 (3) a debt collection agency; or

16 (4) a debt buyer.

17 (e) "Debt" means an obligation or an alleged obligation to pay money,
18 except that "debt" does not include an obligation or an alleged obligation
19 to pay money that is secured by real property.

20 (f) "Debtor" means an individual who owes or is alleged to owe a
21 debt.

22 (g) "Economic abuse" means behavior that is coercive, deceptive,
23 manipulative or restraints, sabotages or unreasonably controls a person's
24 ability to acquire, use or maintain economic resources to which they are
25 entitled. "Economic abuse" includes, but is not limited to, using coercion,
26 threat of harm, force, fraud or manipulation to:

27 (1) Restrict an individual's access to money, assets, credit or financial
28 information;

29 (2) steal or unfairly use an individual's economic resources, including
30 money, assets and credit;

31 (3) use an individual's credit or property without authorization;

32 (4) prevent an individual from leaving such individual's residence to
33 attend school or employment;

34 (5) exploit the individual's resources for the offender's personal gain;

35 (6) withhold from an individual physical resources such as food,
36 clothing, necessary medications or shelter;

37 (7) cause or attempt to cause an individual to be financially
38 dependent by maintaining control over the individual's financial resources;
39 or

40 (8) exert undue influence over a person's financial behavior or
41 decisions, including forcing default on joint or other financial obligations,
42 exploiting powers of attorney, guardianship or conservatorship or failing
43 or neglecting to act in the best interest of the individual.

1 (h) "Perpetrator of coerced debt" means an individual who causes or
2 is alleged to have caused debt to be incurred by another because of
3 economic abuse.

4 (i) "Qualified third party" means any:

5 (1) Law enforcement officer;

6 (2) physician, physician assistant, psychiatrist, psychologist, social
7 worker, nurse, therapist or clinical professional counselor who is licensed
8 to practice in any state;

9 (3) person who advises or provides services to persons regarding
10 domestic violence, family violence, human trafficking or abuse of
11 children, the elderly or dependent adults; or

12 (4) member of the clergy of a church, religious society or
13 denomination.

14 (j) "Statement of coerced debt" means a statement made by a debtor
15 to a creditor orally or in writing that conveys:

16 (1) Enough information about the debt or portion thereof to allow a
17 creditor to identify the account associated with the debt;

18 (2) that the debtor did not willingly authorize the use of such debtor's
19 name, account or personal information for incurring the debt, or portion
20 thereof, or a claim that a debt or portion thereof is a coerced debt;

21 (3) the facts describing how the debt was incurred if the debtor knows
22 how the debt was incurred; and

23 (4) the debtor's preferred contact method and information such as a
24 phone number, email address, physical address or safe address for either
25 the debtor or a third party whom the debtor designates to receive
26 information about the debt.

27 Sec. 3. (a) Within 10 business days after receipt of a debtor's
28 statement of coerced debt, the creditor shall notify any consumer reporting
29 agency to which the creditor furnished adverse information about the
30 debtor that the debtor disputes the adverse information.

31 (b) If the debtor provides both a statement of coerced debt and
32 adequate documentation to the creditor, the creditor shall take the
33 following actions within 10 business days after receipt:

34 (1) Cease all attempts to collect the coerced debt from the debtor;

35 (2) refrain from filing any lawsuit to collect the coerced debt or, if a
36 collection action has already been filed, dismiss the action as against the
37 debtor unless the creditor is challenging that the debt is not a coerced debt
38 in such action pursuant to section 4(b), and amendments thereto;

39 (3) cease all garnishment of funds from the debtor;

40 (4) return to the debtor any payments that were made by such debtor
41 or received as part of a garnishment of funds from such debtor on the
42 coerced debt;

43 (5) notify the debtor that the creditor is ceasing all attempts to collect

1 the debt from such debtor based on such debtor's claim of coerced debt.
2 The notice shall be provided to such debtor using such debtor's preferred
3 contact method. The creditor shall inform such debtor of the option to
4 receive the notice in writing;

5 (6) contact any consumer reporting agency to which the creditor
6 furnished information about the debtor and the coerced debt and request
7 that such reporting agency delete such information; and

8 (7) refrain from selling the debt or transferring such debt for
9 consideration. If the creditor does not own such debt and is collecting such
10 debt for another, the creditor shall notify the owner of such debt that such
11 creditor has ceased collection activities against the debtor because such
12 debt is a coerced debt.

13 (c) If the debtor provides to a creditor a statement that includes some
14 but not all of the information required of a statement of coerced debt or
15 provides an oral statement of coerced debt without adequate
16 documentation, the creditor shall notify such debtor within five business
17 days, using such debtor's preferred contact method, of the additional
18 information needed to complete the statement of coerced debt and of the
19 adequate documentation requirement. If the creditor provides this notice
20 orally, such creditor shall inform the debtor of the option to receive the
21 notice in writing.

22 (d) A creditor who provides the debtor with the form described in
23 subsection (f), in both English and Spanish, complies with the requirement
24 in subsection (c) for notifying the debtor of the additional information
25 needed to complete the statement of coerced debt and of the adequate
26 documentation.

27 (e) Any written notices under this section shall be provided to all
28 debtors in both English and Spanish. If the creditor provides oral
29 interpretation services or otherwise communicates with the debtor in any
30 language other than English, such creditor shall provide to the debtor the
31 notice required under this section in such creditor's preferred language
32 either orally or in writing.

33 (f) On or before January 1, 2027, the office of the state bank
34 commissioner, in collaboration with the national consumer law center,
35 shall publish a form for use under this act that is substantially similar to
36 model form A-1 published by the national consumer law center.

37 (g) In connection with any communication related to a debtor's
38 statement of coerced debt, the creditor:

39 (1) Shall only use the contact information that the debtor provides in
40 the statement of coerced debt to contact such debtor and shall not use any
41 other contact information;

42 (2) shall not disclose the contact information that the debtor provides
43 in the statement of coerced debt to any other person, including, but not

1 limited to, the perpetrator of coerced debt or joint account holders, without
2 such debtor's express written authorization; and

3 (3) may request that the debtor provide the identity of the perpetrator
4 of coerced debt, if known, and the contact information for such
5 perpetrator, if known.

6 Sec. 4. (a) A debtor is not liable for a coerced debt. A debtor may
7 raise as a defense in any forum and by any allowable procedure that a
8 particular debt, or portion thereof, is a coerced debt.

9 (b) The debtor establishes a *prima facie* case that a debt is a coerced
10 debt by providing a statement of coerced debt and adequate
11 documentation. If the creditor has a good faith basis to believe that such
12 debt is not a coerced debt, such creditor may seek a court order in a court
13 of competent jurisdiction declaring such debt is not a coerced debt. In such
14 a suit, the creditor has the burden to disprove the debt is a coerced debt.

15 (c) A person shall not cause another person to incur a coerced debt. A
16 person who is found to be a perpetrator of coerced debt by a court of
17 competent jurisdiction shall be civilly liable to the creditor. The perpetrator
18 of coerced debt may also be civilly liable to the debtor to the extent that
19 such debtor made payments or incurred costs related to the coerced debt.

20 (d) A creditor may use all legal rights and remedies to collect the
21 coerced debt from the perpetrator of coerced debt.

22 (e) In any court action, the court shall take appropriate steps
23 necessary to protect the debtor or an immediate family member of such
24 debtor from an alleged perpetrator of coerced debt by sealing court
25 records, redacting personally identifiable information about such debtor
26 and any immediate family member of such debtor and directing that any
27 deposition or evidentiary hearing be conducted remotely.

28 (f) Any creditor who fails to comply with any of the provisions of
29 section 3, and amendments thereto, is liable to the debtor for:

30 (1) Any actual damages sustained by the debtor as a result of such
31 noncompliance;

32 (2) court costs and reasonable attorney fees as determined by the
33 court; and

34 (3) punitive damages if the court finds that a creditor's
35 noncompliance was willful.

36 (g) The provisions of this act apply to lawsuits filed in this state
37 regardless of whether a related contract provides that the law of another
38 state is chosen.

39 Sec. 5. This act shall take effect and be in force from and after its
40 publication in the statute book.