SB 373 (Min)
Protecting Vulnerable Populations From Coerced Debt

Problem

Survivors of domestic violence or elder abuse, and foster youth are often the victim of coerced or fraudulent debt, with debts taken out in their name without their knowledge or consent. These debts damage individuals' credit and force them into years of debt repayment, reducing their economic stability and leaving them vulnerable to future abuse, poverty, and housing instability or homelessness.

Background

Financial abuse occurs in 99% of domestic violence cases[i] and can include stealing money, credit, property, or identity from a partner. It may also include forcing a partner to file fraudulent legal financial documents or overspend on credit cards[ii]. Abusive partners can incur debt without a survivor's consent, or coerce a survivor into incurring the debt, by threats of harm. This debt and poor credit score resulting from financial abuse impact can have long-term consequences for survivors, creating barriers to education, housing and employment opportunities.

Research shows that access to economic resources is the most likely predictor of whether a survivor will be able to permanently separate from their abusive partner.[iii] In a 2012 survey, of the 85% of victims who returned to their abusive partners, a significant number cited an inability to address their finances.[iv]

52% of domestic violence survivors report experiencing coerced and fraudulent debt, and these debts are significant. An average of $15,936 of debt is incurred in a survivor's name without their knowledge or consent each year[v] and at least 42% of survivors experience damaged credit as a result of these debts.

Credit card companies typically require survivors to provide police reports establishing fraud before providing relief. This requirement effectively bars many survivors from seeking support as 80% report being afraid to contact the police.[vi]

In cases of elder abuse, family members and other trusted individuals can abuse a Power of Attorney and steal the person's monies, take advantage of joint bank accounts, use ATM cards and steal checks to withdraw monies from the individual's accounts, and threaten to abandon, hit or otherwise harm the individual unless their demands are met.[vii]

Youth in foster care are particularly vulnerable because they may have multiple placements which give many adults access to their personal information. Further, the circumstances that lead to their being in care frequently give rise to the potential for financial abuse. A pilot project in Los Angeles worked with 104 foster youth who had 247 separate accounts reported in their names, as the result of errors or identity theft. The average account balance was $1,811, with the largest being a home loan of over $200,000.[viii] There is no national data on foster youth identity theft. However, a 2018 survey conducted by the Identity Theft Resource Center (ITRC) and Symantec that included youth in Santa Clara and San Diego Counties, found that 15% of foster youth surveyed were victims of identity theft. [ix]. Recognizing this, state and federal law requires all three credit report agencies provide free credit reports to foster youth and requires child welfare agencies to obtain and examine credit reports of all foster youth over the age of 14, and annually thereafter.

Several states, including Texas and Maine, have already taken steps to address these coerced debt burdens on survivors. In 2020, California passed AB 2517 (Gloria), a first step for responding to these issues in domestic violence cases.

Solution

This bill will prohibit creditors and debt collectors from being able to collect from a survivor or foster youth when the debt is deemed to be coerced debt and will prohibit consumer credit reporting agency from reporting debts that are a result of this abuse. The bill will expand the allowed documentation to demonstrate that the debt was incurred as a result of economic abuse.

Contact

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Support

California Partnership to End Domestic Violence (co-sponsor)
Public Law Center (co-sponsor)
Law Foundation of Silicon Valley (co-sponsor)
Crime Survivors for Safety and Justice
FreeFrom
Women's Transitional Living Center, Inc.
Human Options
Laura's House
Stand Strong
Alliance Against Family Violence and Sexual Assault
Little Hoover Commission

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[i] Adams, Adrienne E. "Measuring the Effects of Domestic Violence on Women's Financial Well-being." CFS Research Brief 2011-5.6.
[ii] Tisdale, S. (2016). "Breaking the Chains of Financial Abuse." Black Enterprise, 46(6), 52-55
[iii] Erika Sussman, The Civil Protection Order as a Tool for Economic Justice, from the Guidebook on Consumer & Economic Civil Legal Advocacy for Survivors, Center for Survivor Agency and Justice, 172 (2017).
[iv] Salamone, Nancy. (September 2010). "Domestic Violence and Financial Dependency." Forbes.
[v] Adrienne E. Adams, Angela K. Littwin, & McKenzie Javorka, "The Frequency, Nature, and Effects of Coerced Debt Among a National Sample of Women Seeking Help for Intimate Partner Violence," Violence Against Women, (2019): https://doi.org/10.1177/1077801219841445
[vi] TK Logan & Rob (Roberta) Valente, "Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses," National Domestic Violence Hotline, (2015): http://www.thehotline.org/wpcontent/uploads/sites/3/2015/09/NDVH-2015-Law-Enforcement-Survey-Report.pdf
[vii] National Adult Protective Services Association. https://www.napsa-now.org/get-informed/exploitation-resources/
[viii] A Better Start: Clearing Up Credit Records for California Foster Children Report on Results of a Pilot Project, August 2011. California Office of Privacy Protection. Available at https://oag.ca.gov/sites/all/files/agweb/pdfs/privacy/foster_youth_credit_records.pdf
[ix] The Impact of Identity Theft on Foster Youth 2018. Available at https://www.idtheftcenter.org/wp-content/uploads/2019/01/ITRC_dec18_white-pages-foster-youth_FINAL_web.pdf