

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2712

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Introduction and first reading
 Referred to Commerce and Consumer Protection

OFFICIAL STATUS

1.1 A bill for an act
 1.2 relating to commerce; providing remedies to debtors with coerced debt; proposing
 1.3 coding for new law in Minnesota Statutes, chapter 332.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **332.71** DEFINITIONS.

1.6 Subdivision 1. Scope. For the purposes of sections 332.71 to 332.75, the definitions in
 1.7 this section have the meanings given them.

1.8 Subd. 2. Coerced debt. (a) "Coerced debt" means all or a portion of debt in a debtor's
 1.9 name that has been incurred as a result of:

1.10 (1) the use of the debtor's personal information without the debtor's knowledge,
 1.11 authorization, or consent;

1.12 (2) the use or threat of force, intimidation, undue influence, harassment, fraud, deception,
 1.13 coercion, or other similar means against the debtor; or

1.14 (3) economic abuse perpetrated against the debtor.

1.15 (b) Coerced debt does not include debt secured by real property.

1.16 Subd. 3. Creditor. "Creditor" means a person, or the person's successor, assignee, or
 1.17 agent, claiming to own or have the right to collect a debt owed by the debtor.

1.18 Subd. 4. Debtor. "Debtor" means a person who (1) is a victim of domestic abuse,
 1.19 harassment, or sex or labor trafficking, and (2) owes coerced debt.

2.1 Subd. 5. **Documentation.** "Documentation" means a writing that identifies a debt or a
2.2 portion of a debt as coerced debt, describes the circumstances under which the coerced debt
2.3 was incurred, and takes the form of:

2.4 (1) a police report;

2.5 (2) a Federal Trade Commission identity theft report;

2.6 (3) an order in a dissolution proceeding under chapter 518 that declares that one or more
2.7 debts are coerced; or

2.8 (4) a sworn written certification.

2.9 Subd. 6. **Domestic abuse.** "Domestic abuse" has the meaning given in section 518B.01,
2.10 subdivision 2.

2.11 Subd. 7. **Economic abuse.** "Economic abuse" means behavior in the context of a domestic
2.12 relationship that controls, restrains, restricts, impairs, or interferes with the ability of a victim
2.13 of domestic abuse, harassment, or sex or labor trafficking to acquire, use, or maintain
2.14 economic resources, including but not limited to:

2.15 (1) withholding or restricting access to, or the acquisition of, money, assets, credit, or
2.16 financial information;

2.17 (2) interfering with the victim's ability to work and earn wages; or

2.18 (3) exerting undue influence over a person's financial and economic behavior or decisions.

2.19 Subd. 8. **Harassment.** "Harassment" has the meaning given in section 609.748.

2.20 Subd. 9. **Labor trafficking.** "Labor trafficking" has the meaning given in section 609.281,
2.21 subdivision 5.

2.22 Subd. 10. **Qualified third-party professional.** "Qualified third-party professional"
2.23 means:

2.24 (1) a domestic abuse advocate, as defined under section 595.02, subdivision 1, paragraph
2.25 (l);

2.26 (2) a sexual assault counselor, as defined under section 595.02, subdivision 1, paragraph
2.27 (k);

2.28 (3) a licensed health care provider, mental health care provider, social worker, or marriage
2.29 and family therapist; or

2.30 (4) a nonprofit organization in Minnesota that provides direct assistance to victims of
2.31 domestic abuse, sexual assault, or sex or labor trafficking.

3.1 Subd. 11. **Sex trafficking.** "Sex trafficking" has the meaning given in section 609.321,
3.2 subdivision 7a.

3.3 Subd. 12. **Sworn written certification.** "Sworn written certification" means a statement
3.4 by a qualified third-party professional in the following form:

3.5 CERTIFICATION OF QUALIFIED THIRD-PARTY PROFESSIONAL

3.6 I, (name of qualified third-party professional), do hereby certify under
3.7 penalty of perjury as follows:

3.8 1. I am a licensed health care provider, mental health care provider, social worker,
3.9 marriage and family therapist, domestic abuse advocate, as that term is defined in Minnesota
3.10 Statutes, section 595.02, subdivision 1, paragraph (l), or sexual assault counselor, as that
3.11 term is defined in Minnesota Statutes, section 595.02, subdivision 1, paragraph (k), or a
3.12 staff member of a nonprofit organization that provides direct assistance to victims of domestic
3.13 abuse, sexual assault, or sex or labor trafficking, who has had in-person contact or
3.14 face-to-face contact through an electronic medium with (name of debtor).

3.15 2. Based on my professional interactions with the debtor and information presented to
3.16 me in my professional capacity, I have a reasonable basis to believe (name of
3.17 debtor) is a victim of domestic abuse, harassment, sex trafficking or labor trafficking and
3.18 has incurred all or a portion of debt that is coerced debt, as that term is defined in Minnesota
3.19 Statutes, section 332.71, subdivision 3.

3.20 3. Based on my professional interactions with the debtor and on information presented
3.21 to me, I have reason to believe that the circumstances under which the coerced debt was
3.22 incurred are as follows:

3.23 4. The following debts or portions of the debts have been identified to me as coerced:

3.24 I attest that the foregoing is true and correct.

3.25 (Printed name of qualified third party)

3.26 (Signature of qualified third party)

3.27 (Business address and business telephone)

3.28 (Date)

3.29 **Sec. 2. [332.72] COERCED DEBT PROHIBITED.**

3.30 A person is prohibited from causing another person to incur coerced debt.

4.1 **Sec. 3. [332.73] NOTICE TO CREDITOR OF COERCED DEBT.**

4.2 Subdivision 1. **Notification.** (a) Before taking an affirmative action under section 332.74,
4.3 a debtor must, by certified mail, notify a creditor that the debt or a portion of a debt on
4.4 which the creditor demands payment is coerced debt and request that the creditor cease all
4.5 collection activity on the coerced debt. The notification and request must be in writing and
4.6 include documentation. The creditor, within 30 days of the date the notification and request
4.7 is received, must notify the debtor in writing of the creditor's decision to either immediately
4.8 cease all collection activity or continue to pursue collection.

4.9 (b) If a creditor ceases collection but subsequently decides to resume collection activity,
4.10 the creditor must notify the debtor ten days prior to the date the collection activity resumes.

4.11 (c) A debtor must not proceed with an action under section 332.74 until the 30-day
4.12 period provided under paragraph (a) has expired.

4.13 Subd. 2. **Sale or assignment of coerced debt.** A creditor may sell or assign a debt to
4.14 another party if the creditor selling or assigning the debt includes notification to the buyer
4.15 or assignee that the debtor has asserted the debt is coerced debt.

4.16 Subd. 3. **No inference upon cessation of collection activity.** The fact that a creditor
4.17 ceases collection activity under this section or section 332.74 does not create an inference
4.18 or presumption regarding the validity or invalidity of a debt for which a debtor is liable or
4.19 not liable. The exercise or nonexercise of rights under this section is not a waiver of any
4.20 other debtor or creditor rights or defenses.

4.21 **Sec. 4. [332.74] DEBTOR REMEDIES.**

4.22 Subdivision 1. **Right to petition for declaration and injunction.** (a) A debtor alleging
4.23 violation of section 332.72 may petition for equitable relief in the district court in the county
4.24 where the debtor lives or where the coerced debt was incurred. The petition must include:

4.25 (1) the notice to the creditor required under section 332.73, subdivision 1;

4.26 (2) consistent with Rule 11 of the Minnesota Rules of General Practice, information
4.27 identifying (i) the account or accounts associated with the coerced debt, and (ii) the person
4.28 in whose name the debt was incurred; and

4.29 (3) the identity and, if known, contact information of the person who caused the debtor
4.30 to incur coerced debt, unless the debtor signs a sworn statement that disclosing the
4.31 information is likely to result in domestic abuse or other harm to the debtor, the debtor's
4.32 children, parents, other relatives, or a family pet.

5.1 (b) The court must take appropriate steps necessary to prevent abuse of the debtor or to
5.2 the debtor, the debtor's children, parents, other relatives, or a family pet. For purposes of
5.3 this paragraph, appropriate steps include but are not limited to sealing the file, marking as
5.4 confidential redacting personally identifiable information about the debtor, and directing
5.5 that any deposition or evidentiary hearing be conducted remotely.

5.6 Subd. 2. **Relief.** (a) If a debtor shows by a preponderance of the evidence that the debtor
5.7 has incurred coerced debt, the debtor is entitled to one or more of the following:

5.8 (1) a declaratory judgment that the debt or portion of a debt is coerced debt;

5.9 (2) an injunction prohibiting the creditor from (i) holding or attempting to hold the debtor
5.10 liable for the debt or portion of a debt, or (ii) enforcing a judgment related to the coerced
5.11 debt; and

5.12 (3) an order dismissing any cause of action brought by the creditor to enforce or collect
5.13 the coerced debt from the debtor or, if only a portion of the debt is established as coerced
5.14 debt, an order directing that the judgment, if any, in the action be amended to reflect only
5.15 the portion of the debt that is not coerced debt.

5.16 (b) This subdivision applies regardless of the judicial district in which the creditor's
5.17 action or the debtor's petition was filed.

5.18 Subd. 3. **Affirmative defense.** In an action against a debtor to satisfy a debt, it is an
5.19 affirmative defense that the debtor incurred coerced debt.

5.20 Subd. 4. **Burden.** In any affirmative action taken under subdivision 1 or any affirmative
5.21 defense asserted in subdivision 3, the debtor bears the burden to show by a preponderance
5.22 of the evidence that the debtor incurred coerced debt. There is a presumption that the debtor
5.23 has incurred coerced debt if the person alleged to have caused the debtor to incur the coerced
5.24 debt has been criminally convicted, entered a guilty plea, or entered an Alford plea under
5.25 section 609.27, 609.282, 609.322, or 609.527.

5.26 Subd. 5. **Statute of limitations tolled.** (a) The statute of limitations under section 541.05
5.27 is tolled during the pendency of a proceeding instituted under this section.

5.28 (b) A creditor is prohibited from filing a collection action regarding a debt that is the
5.29 subject of a proceeding instituted under this section while the proceeding is pending.

5.30 (c) If a debtor commences a proceeding under this section while a collection action is
5.31 pending against the debtor regarding a debt that is subject to the proceeding, the court must
5.32 immediately stay the collection action pending the disposition of the proceeding under this
5.33 section.

6.1 Sec. 5. **[332.75] CREDITOR REMEDIES.**

6.2 Nothing in sections 332.71 to 332.74 diminishes the rights of a creditor to seek payment
6.3 recovery for a coerced debt from the person who caused the debtor to incur the coerced
6.4 debt.

6.5 Sec. 6. **EFFECTIVE DATE.**

6.6 Sections 1 to 5 are effective the day following final enactment.