

COERCED DEBT

ISSUE BRIEF

Nearly all survivors of intimate partner violence (94-99%) report experiencing economic abuse as part of their relationship, and studies show that 52% experience coerced or fraudulent debt.¹ In New York City, more than one in three survivors who seek domestic violence-related legal services also have a consumer debt issue.² Coerced debt refers to “all nonconsensual, credit-related transactions that occur in a violent relationship.” This includes debt that an abusive partner or another harm-doer takes out in the survivor’s name without their knowledge or consent (“fraudulent transactions”), or debt that they pressure, threaten, or manipulate a survivor into taking out in their own name (“coercive transactions”).³ While coerced debt

occurs and has been primarily studied in intimate partnerships, it also occurs in other abusive relationships of trust such as between a child and their parent or guardian, or an elderly or person with disabilities and their caretaker, or instances of trafficking. It is a particular form of abuse that creates a cascade of other economic consequences throughout a lifetime.

“One of the things that make it so hard to get a place to live is that they check your credit. Just imagine someone who’s been through domestic violence, who’s suffering from trauma and whose partner had all the money. How is she going to find a safe place to live?”

—survivor from visioning call

A cascade of economic consequences.

Coerced debt has a traumatic impact that lasts long after abuse ends and restricts access to resources needed for safety regardless of

whether a survivor leaves or stays in a relationship. For example, 46% of survivors report their credit is damaged as a result of interpersonal violence (and another 14% were “not sure”), with implications for housing, employment, and access to other resources.⁴ The debt loads and credit implications are profound in their own right, but consumer debt judgments may then lead to wage garnishment and bank account restraint. This compounding harm leaves survivors unable to afford immediate basic needs or future resources. According to a survey of callers to the National Domestic Violence Hotline, 73% stayed in abusive relationships longer because they were concerned about financially supporting themselves or their children.⁵

Limited advocacy and legal remedies. Coerced debt is difficult to identify and even harder to address, which places a disparate impact on those from marginalized communities who face particular barriers to financial protection and the legal advocacy often required to relieve even some of the damage of coerced debt. For example, 48% of survivors report not having access to important financial information

in addition to experiencing coerced debt.⁶ And 62% of those who experience fraudulent transactions only learn about the coerced debt via bills or notices from debt collectors.⁷ Direct advocates and attorneys may also struggle to identify and address coerced debt. In a 2012 national needs assessment, the vast majority of domestic violence advocates and attorneys asked survivors they work with about their fear of retaliation or risk of physical abuse (83%), but less than half (45%) routinely asked if they were coerced into signing documents or other indicators of economic abuse and coerced debt.⁸ While advocates from New York City and the surrounding areas have built a robust network for DV and consumer law cross-training and referrals, additional funding for consumer legal resources for survivors is urgently needed.

Systems retraumatize rather than remedy coerced debt. While great strides have been made in survivor centered economic advocacy since 2012, coerced debt is difficult to remedy, even when identified. In a visioning call in November 2021 with twenty-four advocates representing 15 organizations mainly in New York City, advocates identified numerous systemic barriers to recovery from coerced debt.⁹ Our deregulated consumer financial system places the onus of remedying coerced debt almost entirely upon individual survivors who are, in fact, the victims of fraud or coercion -- survivors are seeking healing, but instead face additional trauma. Survivors must navigate multiple bureaucratic systems (from credit agencies, to the IRS, public benefits, and the NYPD) that are not only unhelpful, but victim-blaming and re-traumatizing with long-standing racialized, gendered, homophobic, and anti-immigrant structures. For example, financial institutions require survivors to file identity theft reports to police who scoff at or even mock their situation, or who believe that fraud cannot take place between partners or spouses or is a “household” or “civil” matter, and who regularly refuse to take the report; creditors and banks are patronizing and make assumptions about access to money and household make-up; landlords and public benefits workers act as gatekeepers rather than bridges to immediate resources; and civil and criminal court judges alike deem low-income survivors as “unfit” or personally irresponsible rather than understanding and adjudicating the power and abuse dynamics in all types of relationships. In addition, survivors then face abusive debt collection practices, receive default judgments due to not receiving or not having access to financial or court notifications, and may require legal services that are out of reach to many low-income and multiply marginalized people.

The impact of deregulated consumer financial systems. Even with the support of survivor-centered legal advocacy, federal, state, and city consumer protection laws largely fail to address the specific needs and circumstances of economic abuse survivors. Unless a harmful partner or person’s actions fit neatly within the narrow definition of identity theft, survivors cannot claim coerced debt as a defense in a consumer debt case or allege that an abuser has committed an offense of coerced debt against them in a criminal, family court, or matrimonial matter. Laws and regulations are needed to expand consumer rights and protections to survivors of gender-based violence, including by defining economic abuse and coerced debt and placing a greater onus on financial institutions to detect and remedy them, as they already do with money laundering and other financial crimes.

We commend the CFPB and federal and state legislatures for certain reforms implemented in mid-2022, while drafting this report: Pursuant to the recently enacted Debt Bondage Repair Act¹⁰, the Consumer Financial Protection Bureau amended Regulation V, which implements the Fair Credit Reporting Act¹¹, to require consumer reporting agencies to block the reporting of a consumer’s adverse information that is the result of trafficking¹². This protection does not yet extend to survivors of other forms of economic abuse or coerced debt, and we encourage further legislation and rulemaking in this area. New York State enacted legislation adding coerced debt as a type of identity theft and requiring financial institutions to accept Federal Trade Commission identity theft reports in lieu of police reports to trigger identity theft investigations and as documentation of identity theft.¹³

Survivor recommendations:

- Create multiple pathways to forgive, buy-off, or pay survivors' debt burden
- Build alternatives to savings and credit
- Support partnership building between legal, advocacy, and solidarity economy networks
- Remove credit checks from housing

Advocate recommendations:¹⁴

- Fund and expand consumer, tax, and bankruptcy legal services specifically geared toward survivors.¹⁵ (NY City and State programs may be needed)
- Create and fund unrestricted cash assistance programs for survivors¹⁶ - direct to survivors and communities and expanded funds to advocacy organizations - especially survivor-led and culturally specific - to provide economic advocacy and/or help access or administer funds. (NY City and State programs may be needed)
- Provide funding to staff consumer, tax and bankruptcy advocates and attorneys at the Family Justice Centers as well as at community centers in all districts.
- Fund survivor-led coerced debt support and advocacy groups
- Fund interdisciplinary training for domestic violence, consumer debt, and tax advocates
- Develop and fund training programs for the judiciary, 18B panel, NYPD, HRA, and other city agencies or entities on coerced debt and economic abuse
- Require domestic violence and elder abuse funding grantees to collect and report information about consumer debt, coerced debt, and economic abuse during intake, and provide funding and training to help grantees modify client management systems/databases, collect this data, and make referrals for assistance.

Additional recommendations:

- NOTE: Most of these are state-level recommendations, however we suggest creating a comprehensive plan for city, state, and federal legislative and policy change or creation to advance survivors' specific coerced debt protections.
- Expand funding and create standards in residential and non-residential domestic violence programs to ensure: staff are trained on issues of economic abuse and coerced debt, survivors are appropriately screened for economic abuse and provided appropriate legal and other services. Funding levels should allow for training, hiring of specialized consumer lawyers, and/or other innovative models. Expanded mandates require expanded funding.
- Define "Coerced Debt" and "Economic Abuse" in the New York State Social Services Law, Family Court Act, Penal Code, and General Business Law.
- Enact state legislation to create a coerced debt defense in consumer credit actions.
- Strengthen legislation that prohibits collecting on coerced debt and reporting it to consumer reporting agencies by adding safety protocols and lowering barriers by eliminating investigations or placing a greater onus on financial institutions in investigations.

ENDNOTES

- 1 Adrienne E. Adams, et. al., *supra* note 10 at 1, 7.
- 2 Domestic Violence & Consumer Law Working Group, *supra* note 11.
- 3 Angela Littwin, Coerced Debt: The Role of Consumer Credit in Domestic Violence, 100 CALIF. LAW REVIEW 951, 954 (2012).
- 4 Adrienne E. Adams, et. al., *supra* note 10 at 8.
- 5 *Id.* See also Cynthia Hess and Alona Del Rosario, A Survey on the Impact of Intimate Partner Violence on Survivor's Education, Careers, and Economic Security, at 8, 33 (2018)https://iwpr.org/wp-content/uploads/2020/09/C475_IWPR-Report-Dreams-Deferred.pdf (last visited June 21, 2022).
- 6 Angela Littwin, *supra* note 17 at 954 See also Coerced Debt Study at 3..
- 7 Adrienne E. Adams, et. al., *supra* note 10 at 8.
- 8 Center for Survivor Agency and Justice, Achieving Economic Justice of Domestic Violence and Sexual Assault Survivors: A National Needs Assessment (2012), <https://csaj.org/wp-content/uploads/2021/10/Achieving-Economic-Justice-for-Domestic-Violence-Survivors-A-National-Needs-Assessment.pdf> (last visited Sept. 8, 2022).
- 9 Participants represented a wide range of fields, including shelter, housing, and frontline services for DV and trafficking survivors; consumer law; family and matrimonial law; elder law; tax law; public benefits; and community organizing.
- 10 H.R.2332 (introduced in the 117th Cong. on Apr. 1, 2021), S.2040 (introduced in the 117th Cong. on Jun. 14, 2021); 15 U.S.C. s. 1681c-3.
- 11 15 U.S.C. s. 1681 et. seq.
- 12 12 C.F.R. s. 1022.142.
- 13 N.Y. Gen Bus. 604-a.
- 14 For additional data on economic abuse in New York City and policy recommendations, see the Denied! Report, Domestic Violence & Consumer Law Working Group *supra* note 11.
- 15 Tax fraud is another type of economic abuse that either leaves survivors with IRS debt or deprives them of important supplemental income disbursed through the income tax system, e.g., the Earned Income Tax Credit, child dependent tax credits, and stimulus checks. See Teal Inzunza, Tax Professionals Must Look Out for Economic Abuse Each Tax Season, BLOOMBERG TAX (March 31, 2022), <https://news.bloomberglaw.com/financial-accounting/tax-professionals-must-look-out-for-economic-abuse-each-tax-season> (last visited Sept. 8, 2022).
- 16 For survivor-led, survivor-focused programs, see FreeFrom, Trust Survivors: Building an Effective and Inclusive Cash Assistance Program <https://www.freefrom.org/wp-content/uploads/2021/06/TrustSurvivorsReport.pdf> (last visited Jan. 24, 2022)

WE NEED REAL, BOLD ACTION

The first step toward an effective, bold plan is commitment. See below for a variety of ways to support, act, and hold yourself accountable to the vision and recommendations for survivor economic equity.

We invite individual survivors, advocates, community members, community-based organizations, and aligned gender-, racial-, and economic-justice initiatives to support this vision and join us in advocating change.

Join Our Call-To-Action

You can sign as an individual, group, or on behalf of an organization. Your name or organization will be added to a future webpage to help us demonstrate power behind this vision.

And we call on City agencies, elected officials, and other policy makers to support the vision and help us turn key recommendations into reality. Contact us to connect with survivor and advocacy groups to advise, draft, and help effect your policy and legislative agendas.

Show Your Support

Contact us: nyc_survivor_ej@csaj.org

Together we can bridge the ripple effect and transform the economic landscape facing survivors in NYC.

“We all count, we have a say. There is equality and comradeship in our community.”

— a survivor visioning call participant