

BILL ANALYSIS

Senate Research Center
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S.B. 269
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Coerced debt is a form of family violence wherein the abuser, through violence, threat, or fraud, forces the victim to engage in nonconsensual, credit-related transactions. There are numerous types of coerced debt behavior, but each has the same goal: to gain financial control over a victim, depriving that person of access to funds, damaging his or her credit, and limiting his or her ability to escape an abusive situation successfully.

Coerced debt can take many forms, such as the abuser opening a line of credit in the victim's name, charging transactions to a victim's credit card, depriving the victim of access to family bank accounts, controlling any income the victim receives, and/or withholding or hiding information about the family's finances. This form of financial abuse not only makes leaving an abusive situation considerably more difficult, but can also have devastating effects for survivors who do escape, substantially limiting their economic self-sufficiency and affecting employment, housing, and future credit opportunities. Worse, because the financial tactics abusers employ are generally legal, victims of coerced debt have very little, if any, recourse under current law.

S.B. 269 would address coerced debt by adding "effective consent," a broader legal standard than simply "consent," to the Penal Code definition of identity theft, effectively expanding the statute to include coerced debt and similar behaviors. The benefits of this change are twofold: not only can domestic abusers then be prosecuted for such behavior, but also—and perhaps most critically—victims of coerced debt can gain special rights conferred to victims of identity theft via existing state and federal laws, such as the Fair Credit Reporting Act. These rights assist victims with repairing their credit, opening new opportunities for employment, housing, and banking, among other essentials.

As proposed, S.B. 269 amends current law relating to the prosecution of the offense of fraudulent use or possession of identifying information.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 502.001(c), Business & Commerce Code, as follows:

(c) Requires a restaurant or bar owner to display in a prominent place on the premises of the restaurant or bar a sign stating in letters at least one-half inch high: "UNDER SECTION 32.51, PENAL CODE, IT IS A STATE JAIL FELONY (PUNISHABLE BY CONFINEMENT IN A STATE JAIL FOR NOT MORE THAN TWO YEARS) TO OBTAIN, POSSESS, TRANSFER, OR USE A CUSTOMER'S DEBIT CARD OR CREDIT CARD NUMBER WITHOUT THE CUSTOMER'S CONSENT OR EFFECTIVE CONSENT."

SECTION 2. Amends Section 32.51(b), Penal Code, as follows:

(b) Establishes that a person commits an offense if the person, with the intent to harm or defraud another, obtains, possesses, transfers, or uses an item of:

(1) identifying information of another person without the other person's consent or effective consent, rather than without the other person's consent;

(2)–(3) makes no changes to these subdivisions.

SECTION 3. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Effective date: September 1, 2019.