Examining the accuracy and effectiveness of the consumer credit reporting system
Joint Hearing of the New York Assembly Committee on Consumer Affairs and Protection
and the Assembly Committee on Banks

Hearing Video • Hearing Notice

Bills Discussed:

- A. 2484 by Niou. Relates to requiring credit reporting agencies contact consumers when an inquiry is made into their credit history
- A. 4681 by Reyes, Karines. Relates to rental discrimination based upon consumer credit history.
- A. 6388/A. 1161A by Dinowitz, Jeffrey. Prohibits the disclosure or use of consumer credit history in hiring, employment and licensing determinations.
- A. 7218 by Pretlow, Gary J. Directs the superintendent of financial services to promulgate rules and regulations limiting the use of credit scores to determine automobile insurance premiums.
- A. 8126 by Niou. Prohibits using a consumer's credit score to determine such consumer's access, price, or premium for any insurance policy or other service such consumer is mandated by the state to purchase
- A. 10667 by Rosenthal, Linda B. Establishes a right of action for claims arising out of coerced debts.

Unofficial Transcript Prepared for CDIA

Nily Rozic (00:00:00):

Good morning.

(00:00:08):

Thanks to everyone for joining us. Very quickly, I will do some introductory remarks. I will pass it over to today's co-chair of the Public Hearing, Banks Committee chair, Pat Fahy. I would like to thank other committee members who are here in attendance, including minority members who will introduce themselves. I would also like to thank the central staff, particularly my team, Aubrey, Ashley, and Pat, and all the witnesses who are joining us either virtually or in person. As we all know, the consumer credit system continues to expand and impact all of our lives in many ways, from decisions on loan applications to mortgages and interest rates and even our employment opportunities. More recently, significant challenges like the pandemic or rising prices and cost of living have heavily contributed to additional potential pitfalls with the consumer credit experience.

(00:01:14):

Since these experiences are continually being recorded and documented by a credit reporting industry that doesn't always do so accurately or properly, protections of New York consumers from various errors disputes or even weeks over their credit records, reports and scores require frequent review and improvements. Today's public hearing, we will hear testimony that addresses various concerns with the accuracy and effectiveness of credit reporting and scoring, and the means by which New York State can improve and modernize it. I will now turn it over to my colleague, Fahy.

Patricia Fahy (00:01:55):

Good morning, and thank you to all for being here. Thank you to our chair, Nily Rozic, for doing this hearing with us jointly the consumer affairs and protections with the banks, much appreciated as well as being joined here by a number of ranking members who will be introduced very shortly. This is such a serious issue. While we know it's probably a tough time of year to do this, it doesn't negate the seriousness of the issue, and credit ratings have such a serious bearing on individuals' lives. A credit report is what fuels that credit rating. I just want to use one stat, I know we'll hear many today, about the FTC, the Federal Trade Commission reports that as many as one fourth of consumers, this is a national stat, one fourth of consumers may have an error on their credit report, and those errors can be small errors on personal data or identity, but they have a huge impact.

(00:03:06):

We talk so much here about the problems with inflation, the burdens on consumers right now, given so much upheaval in the economy in the last couple of years due to Covid and most recently to inflation and so much of that impact on housing. I know particularly for my son who would watch his credit report. I think every month he checked because it has so much impact on rentals, housing and more.

(00:03:37):

We also talk a lot about mental health and when a consumer is fighting to fix something or trying to figure out how to fix that report, it can be incredibly challenging as well. I know we'll hear more on this, but I so appreciate the opportunity and again, I thank my co-chair for today in holding this hearing and look forward to hearing more. Thank you.

Nily Rozic (00:04:02):

Thanks, Assembly member.

Brian Manktelow (00:04:05):

Good morning everyone, and thank you ladies for bringing this meeting together. It's great to see everyone here and I'll echo some of the comments already. I want to thank our staff here with us and all of you that help with this all together, from security to our staff, everyone here at the table. I'll let each member introduce themselves. I'm Brian Mank, the assemblyman from the 130th District. I serve on the banks committee, and I'm looking forward to hearing all of you and what you have to say.

John Lamondes (00:04:33):

Thank you, Brian. Thank you colleagues. John Lamondes, 126th Assembly District. I also serve on the banking committee and I am incredibly interested in this particular topic because of its impact on all of us. I just want to make sure that we continue to do everything that we can do to improve the oversight on credit reporting system. Thank you.

Joseph Angelino (00:05:03):

My name is Joseph Angelino. I represent the 122nd Assembly District. I am a member of the banks committee and I appreciate that you're here and I look forward to the testimony and asking a few questions. Thank you.

Jodi Giglio (00:05:20):

Good morning. I want to thank the chair and the ranker for having this meeting this morning. It is very important. My name is Jodi Giglio. I represent the second assembly district on Long Island, and I am a member of the Consumer Affairs Committee. Thank you.

Nily Rozic (00:05:33):

Great. Thank you so much. Our first witness who will be testifying today is Christopher D'Angelo in the office of the Attorney General. He is the chief deputy for Financial Justice. Take it away.

Christopher D'Angelo (00:05:49):

Great. Good morning. Thank you for the opportunity to present testimony today concerning the accuracy and effectiveness of consumer credit reporting. My name is Chris Angelo, and I'm the Chief Deputy for Economic Justice at the New York Attorney General's Office. I want to begin by thanking Chair Rozic and Chair Fahy for holding this hearing and inviting our office to participate. The failures of our credit reporting system cause significant harm to consumers and serves as an impediment to their ability to achieve financial success. The system is set up without sufficient accountability to consumers and in a manner that disproportionately distributes harm to low income New Yorkers and communities of color. Federal action is needed to address these inequities, but there is also an important role for the state to help minimize harm. The three major credit reporting companies, Experian, Equifax, and TransUnion house consumer credit information for over 200 million Americans, including most New Yorkers. Although credit reports were originally intended to help lenders assess a consumer's likelihood of repaying a loan, they are now commonly used by potential employers, insurance providers, and others.

(00:07:01):

As a result, today, credit reporting companies serve as gatekeepers for numerous potentially life changing commercial decisions, including whether a consumer can rent an apartment, get a job, borrow money for higher education, access affordable auto, life, and homeowner's insurance, or make important purchases such as a home or a car. The Fair Credit Reporting Act requires consumer reporting companies to maintain reasonable procedures to assure maximum possible accuracy for consumer credit information. Not withstanding this obligation, however, a 2012 study by the Federal Trade Commission found that more than 20% of people have an error in their credit report. More recently, a January, 2021 study conducted by Consumer Reports found that 12% of consumers who check their reports reported finding errors. These findings are echoed by the thousands of consumer complaints filed with our office and with the Consumer Financial Protection Bureau each year. The failures of the credit reporting system have a disproportionate negative impact on communities of color.

(00:08:11):

A higher percentage of black and Hispanic consumers have no credit history, making it challenging for them to access most credit markets. People of color who do have credit scores at consumer reporting companies are more likely to have lower scores reflecting the persistent impact of historical inequities such as discrimination in employment, housing, lending policies, debt collection and criminal justice involvement. People of color are also more likely to have errors on their credit reports, which artificially drives their scores even lower. Indeed, the 2021 Consumer report study found that 26% of black non-Hispanic adults found errors on their reports, that compares to just 8% for white non-Hispanic adults. The New York Attorney General has taken a lead role in holding consumer reporting companies accountable. For example, in 2015, the New York Attorney General reached a landmark settlement with the three nationwide consumer reporting companies. That settlement required the companies to devote additional resources to investigating disputes to institute a 180 day waiting period before reporting medical debt and to cease including debt from predatory lenders on consumer credit reports, among other reforms. Despite these enforcement efforts by our office and our state and federal partners, the credit reporting system remains fundamentally broken. First, medical debt, which has little to no relevance in assessing a consumer's credit worthiness is still prevalent on credit reports. Although the three nationwide credit reporting companies have announced significant reforms on this front, nearly half of consumers with medical collections appearing on their reports will continue to see those debts on their reports even after the reforms take effect. Second, landlords still can and routinely do use credit reports to screen potential tenants. As discussed before, those reports contain significant errors and relying on them has the effect of reducing access to housing for low income communities and communities of color. Third, employers routinely use credit reports to make employment decisions, even though credit information generally is unrelated to job performance. Blocking access to jobs based on credit reports exacerbates racial and class discrimination.

(00:10:40):

New York City recently passed a law prohibiting this practice, but it is still legal at the state level. Fourth, auto insurance companies often set significantly higher rates for consumers with lower credit scores. The practice has nothing to do with assessing a consumer's driving history. Several states ban this practice, but New York does not. The result is disproportionately high rates for low income consumers and people of color. I want to thank Chair Rozic and Chair Fahy for holding this hearing and for inviting the New York Attorney General to participate. Our office shares the concerns of these committees regarding accuracy, fairness, and effectiveness of the consumer reporting system.

(00:11:23):

The federal government should overhaul the consumer reporting system, including by considering proposals to create a public option for credit reporting. In the meantime, New York can do more to protect consumers by passing common sense legislation. The CFPB recently issued guidance making clear that states retain substantial flexibility to pass laws that reflect the problems affecting their local communities without fear of preemption. Existing New York legislative proposals would be an important step forward. These include prohibiting the use of consumer credit history and determining access to and the price of insurance, prohibiting the use of consumer credit history in hiring determinations, prohibiting rental discrimination based on consumer credit history. In addition, New York should prohibit consumer reporting companies from including medical debt on credit reports. These proposals could result in immediate savings and open up employment opportunities for some of the most vulnerable New Yorkers. Thank you again, and we look forward to working with you to improve and bring accountability to the credit reporting system.

Nily Rozic (00:12:39):

Thanks so much, Chris. My first question is sort of following up on the settlement that you had in 2015. Can you tell us more about the fallout and then whether or not to your understanding, are credit companies actually keeping up with their promises to do education and all of the other things that you stipulate in your full testimony?

Christopher D'Angelo (00:13:07):

Sure. I think there's no doubt that there's been improvement since 2015, both as a result of our settlement and the result of the consumer financial protection bureau's continuous oversight of the credit reporting companies. The system is vast and it involves a lot of different parties who are all sending information to the national credit reporting companies. The ability to introduce errors into the system is significant. Although the credit reporting companies have added more staff and put more resources into trying to fix these errors, it just simply is not enough. There's also a fundamental breakdown. There's just a market failure that exists in the system. The credit reporting companies see their customers as the lenders and the companies that are purchasing the information, they don't see their customers as you and me and the people whose information that they're housing.

(00:14:11):

Without seeing those individuals as their customers, they don't have the incentive to really do what it takes to root out all of those errors. That's why I think it's very important that we recognizing that fighting for true accuracy is such an uphill client, particularly from the state level. It's important to limit where these error ridden reports are utilized because the consequences of that on people of breaking out of their current economic situation are significant and limiting the types of data that these credit reporting companies maintain, particularly limiting the information we know does not really tell us a lot about the likelihood of a consumer to pay a debt back and which we know is more riddled with errors like medical debt.

Nily Rozic (00:15:01):

Do you know to what extent New York State residents take advantage of resources like free credit reports or other provisions in the federal FCRA?

Christopher D'Angelo (00:15:16):

I don't have a specific percentage. I think if we did a poll in this room, very few of us probably have spent the time to check our credit report. I happen to be one of those nerdy folks who does, but it's probably few and far between. I think honestly, putting the burden on consumers to have to solve this problem for themselves is really the wrong mindset. We should absolutely do more to make sure consumers are aware of their opportunity to check their credit report and fix errors, but I think substantive limits on the credit reporting companies and how they use the data is going to be the most successful in addressing the harms that we see.

Nily Rozic (00:15:57):

You brought up the statistic around 20% found errors. Has the AG's office seen any change or increases since the pandemic on fraud or other issues concerning people's credit reports or data?

Christopher D'Angelo (00:16:16):

In terms of the pandemic, I think there was a little bit of a worry early on that the pandemic situation, people lost employment, they had to go into forbearance on some of their debt, that was going to have a negative impact on their credit score. Fortunately, there was legislation passed that limited the impact of those situations on individual credit scores. We did have reports early on in the pandemic that consumer reporting companies were not keeping up with their obligation to limit the use of negative information result from the pandemic on credit reports. We were, I think, successful in getting those companies to step up and fix that problem. It was at a time when the CFPB was not as vigorous in its enforcement on these issues, and so the New York and other states stepped up to try to fix that problem.

Nily Rozic (00:17:16):

Okay, great. Sure, Fahy.

Patricia Fahy (00:17:21):

Thank you. Very helpful. Very insightful. I have a couple of questions, but let's start with the errors.

Christopher D'Angelo (00:17:29):

Sure.

Patricia Fahy (00:17:31):

You throw out a couple of numbers and I had seen another one from the FTC, either way they're all stunningly high. What actions can New York consumers take when they have trouble removing in inaccurate information? How has the AG's office helped with resolving some of these matters?

Christopher D'Angelo (00:17:53):

Sure.

Patricia Fahy (00:17:54):

I know we get case work on this where somebody is knocking their heads against the wall to try to get something removed or something altered even on names or addresses, things that I've had a couple of problems with. It's not an uncommon name, I've run into problems on my credit with my name being used or abused with credit cards. I've run into a little of this in the past. What is being done through the AG's office, and what do you recommend?

Christopher D'Angelo (00:18:28):

Sure. It is stunningly bad and stunningly problematic. What we would recommend is in the first instance, you can dispute any issue that you find on your credit report directly with the credit reporting companies. I would also recommend that consumers, and we have resources on our website, the Consumer Financial Protection Bureau has resources on their website. The Federal Trade Commission has resources on their website. I would recommend that any consumer who finds an error on their credit report, in addition to working with the consumer reporting companies directly to resolve it should file a complaint immediately with the CFPB and with the New York Attorney General's office. We do engage in some direct outreach with the consumer reporting companies when we get those complaints. The CFPB does the same. In fact, the CFPB, if you go to their most recent consumer complaint report, the highest number of complaints that they get are with respect to errors on peoples' credit reports. They are reasonably successful in their interactions with the credit reporting companies to try to get those errors fixed, but it can feel frustrating for folks. Incredibly frustrating for folks because even with those resources available, consumers get the runaround even with more resources being put in place by the consumer credit companies who may be trying to improve. Those resources are still insufficient, and those errors are still prevalent and they have a real impact. Not only is it that one in five people have those errors, but 5%, if you go to the same FTC study that I think you and I were referencing, 5% of people have errors that are so significant that it materially impacts the price of credit. If you think about 200 million Americans who have information that's 10 million people who have reports that are so error ridden that it will actually meaningfully affect the price of an auto loan or a home loan.

Patricia Fahy (00:20:34):

Actually, I would've thought it was higher than 5%. In some ways that's somewhat encouraging that it's only a smaller percent are serious, given just how widely this is used. Then my next question is, what is the impact of making changes here? It is used, as you just mentioned, everywhere it's used for rent. The credit reports, and ratings are used for rentals, for mortgages, for employers. I think all employers are using it. I think my daughter's going through this right now, auto. What is the alternative? We hear a lot about housing here and I can almost hear landlords now saying, "How do they establish whether someone can... What's an alternative measure other than employment history if you don't have access to a credit rating?"

Christopher D'Angelo (00:21:35):

Sure.

Patricia Fahy (00:21:36):

I know from my children, it's the first thing asked.

Christopher D'Angelo (00:21:41):

I'd start with the easiest ones, which is, you think about auto insurance first. There are four states already that ban the use of credit history in determining access to in the pricing of auto insurance. Those states, auto insurance industries have not fallen by the wayside. People are still able to get auto insurance. Auto insurance companies are still able to price auto insurance. The difference is there's not an artificial tax placed on people for being poor. It has no relationship to a consumer's actual driving history or likelihood of using. You and I pay for the same insurance and if I'm a better driver, but I have worse credit history, I might find myself paying double what someone else is paying who has been in an accident, but just happens to have better credit. Those insurance companies aren't testing whether or not I'm going to need the same product that I paid for, that you paid for, whether I'm more likely to have an event that allows me to tap the insurance.

(00:22:48):

What they're doing is they're assessing whether or not you or I are more likely to file the claim even though we had the same accident or the same event. It may just be a consequence of if I'm more well to do, I may decide that I'm rather pay the thousand dollars out of pocket than go access my insurance company, but we both paid for the same product. We both have the same likelihood of getting into an accident. Why that's relevant to the pricing of auto insurance, I don't understand and I haven't heard a good explanation for it.

(00:23:23):

Four states have determined it's not necessary and their auto insurance market for functioning fine. Same thing is true. Honestly, it's even worse with employment. Someone has difficulty repaying their debts and so now we're going to make it harder for them to get a job so that they have an even harder time repaying their debts. Especially when that has no bearing on whether or not that person is able to do their job or not. These things don't really make any sense when you actually break them down and think about why the system is set up the way that it's set up and we don't need to have to continue to do it the way we're doing it today.

Patricia Fahy (00:24:03):

Thank you. The auto one, I have to say is particularly troubling because where you live often dictates as well the price of auto insurance, and as somebody who lives in an urban area, I know that I'm probably paying higher rates just because of where I live. Do you have any studies or any information whether national or statewide on what individuals may be paying for their auto insurance based on a bad credit rating? Do you have any studies that you know, in other words, is there a 5% you guesstimate there's a 5% difference or a 50% difference because of the use of credit ratings? I think that's one area where it could have a serious, it's actually impact.

Christopher D'Angelo (00:24:50):

It's a stunning difference. There's a consumer report study that I cited in the testimony that talks about how someone with a lower credit score ends up paying double in New York for their on average versus someone who has a prime credit score. Regardless of whether or not that person with a prime credit score may be a worse driver than the person with a lower credit score. It's actually driving, in some instances, in many instances, more of the pricing differential than even your actual driving history in the states.

Patricia Fahy (00:25:27):

Do we have any data from the four states that have adopted a ban on using a credit report for auto insurance? Do we have any data to show that it has resulted in consumer savings?

Christopher D'Angelo (00:25:39):

I don't know for sure if those studies have been done, but we can go take a look and try to get back to you on that.

Patricia Fahy (00:25:44):

Okay. I probably gone over my time. This is very helpful and I look forward to hearing more on the medical debt, the housing. Clearly this is just an overwhelming issue and clearly affecting the vast majority of consumers I would say. So thank you. Very compelling. Thank you.

Nily Rozic (00:26:05):

Assembly member.

Brian Manktelow (00:26:06):

Thank you. Chris, just a question really quick. Early on you said that only about 12% actually check their credit reports?

Christopher D'Angelo (00:26:15):

The 12% number that I cited was from a consumer report study and it said that of the people who do check their credit reports, 12% of them in this 2021 study found errors. Now I suspect that the errors are going to be more heavily weighted on the people who are not sort regularly checking their credit reports and making sure that they're up to date. That's why I think the FTC number from the earlier study from 2012 is probably more accurate, which is about 21% is the number that they had in the FTC study. I don't know what the percentage of people are that actually check their reports, but like I said, of the people who checked their reports, 12% of them in this study found errors.

Brian Manktelow (00:27:01):

Chris, do you feel that it's important that we as individuals take responsibility sometimes to check our own credit reports?

Christopher D'Angelo (00:27:08):

I absolutely think people should do that. I encourage my family members to do it. I do it myself. I think it's an important thing that we should do. The New York Attorney General's office has encouraged people to do that. I think relying on that entirely, given the sort of byzantine nature of the structure that we have in place, I think is insufficient. We know that even the people who check their reports and take action to try to dispute those errors still end up finding that their efforts are met with getting the runaround and frustration and lots of time spent on these things. Sometimes even then it doesn't get fixed for a very long period of time

Brian Manktelow (00:27:53):

I think we all hear that in our jobs, in our offices to run around, go to this person, go to that agency. My question is I believe in teamwork, I believe that...

PART 1 OF 4 ENDS [00:28:04]

Brian Manktelow (00:28:03):

So I guess my question is, I believe in teamwork. I believe that we have good employers, we have good employees, we have good car manufacturers, car businesses, good insurance companies. We need to work together as a team. All of us legislators, the attorney general's office, all of us. Do you know if our education system is teaching anything to our high schoolers about credit ratings, about our credit scores?

Christopher D'Angelo (00:28:26):

I don't know what the state of New York's financial education is. I do know that when I was at the Consumer Financial Protection Bureau before I came to the New York Attorney General, and we had a curriculum that we tried to encourage schools to adopt, because we thought, and I still think, and the New York Attorney General thinks that financial education is obviously an important piece of this. People need to do what they can to protect themselves, they need to understand basic financial terms, and we should be trying to teach that to children as early as possible, all the way up through high school. I think it would be helpful, I don't know the state of play of what the curriculum currently is on that.

Brian Manktelow (00:29:11):

So maybe that's something we should look at from a legislative side, is getting the state ed department on board, because I know back when I went to school, reading, writing and arithmetic were the three majors, but in our junior and senior years, we were given consumer classes, how to balance a checkbook. Not every kid knows what a checkbook is, but how to shop for groceries, how to use coupons, how to do your tax returns, and I think if we can get to these young people sooner than later, we can do this as a team effort across the board and make this work for everyone.

Christopher D'Angelo (00:29:40):

Yeah. Now it might be sort of balancing your account on Zelle or PayPal or whatever it is, but yeah, I think that makes a lot of sense. I just... Given the predicate, though, of just how many errors there are, I just think it's very important that there's a piece of it that focuses on protecting folks substantively, in addition to having the tools to protect themselves.

Brian Manktelow (00:30:05):

Well, I'll keep my time short. So thank you, Chris for testifying, and thank you for answering my questions.

Christopher D'Angelo (00:30:09):

Absolutely.

Nily Rozic (00:30:10):

Assembly member.

John Lemondes (00:30:11):

Thank you. Chris, two quick questions. One, with respect to the impact of inquiries themselves, is there anything that you think that can be done to reduce or stop the detrimental impact of a simple inquiry. That has bugged me my entire life, that every time.

Christopher D'Angelo (00:30:33):

I see.

John Lemondes (00:30:35):

When you want to do anything or any of us want to do anything, the mere fact that you are asked the question, "Do you realize we're going to check your credit. Do you authorize that?", and you're stuck. You have to say yes, whatever you're financing, and whether it's something small or something big, and as soon as you say yes, whether you go through with that transaction or not, your credit is adversely impacted, and I personally think that's criminal.

Christopher D'Angelo (00:31:05):

Yeah. So I think one thing that... There is legislation that I think is pending that would at least require that notice be given to consumers before an inquiry is made on your credit report. I think that's an important step. I think you're talking about a situation where I apply for a particular product and they ask for my consent to do that. I think it's something we should explore with the credit reporting companies to try to understand why they think that that has value in assessing somebody's credit worthiness, whatever algorithm they're using tells them that those inquiries impact your likelihood of repayment in some way, but I'd want to talk to them and understand that a little bit better.

John Lemondes (00:31:48):

Yeah, I would encourage that, because I found that to be problematic my entire life, and then my second question is, with respect to people that are... My focus on this is veterans, people that are mobile, that move constantly, are always generally financing more things more frequently in different states, and my wife and I had something... One home we were purchasing at one duty station, we were financing the home as well as some of the furnishings, and something came up on our credit report as a result of that transaction, and that stuck with us for 10 years, and it was a nominal amount of money, but it impacted our credit, and I thought, "How many other Americans across the country is this happening to?" It just strikes me as so egregiously wrong that you can't... As we've all said, the runaround. You exhaust yourself trying to get these things corrected and removed, and it's like you're driving against a brick wall, but especially if you are a mobile population, it's even harder.

Christopher D'Angelo (00:33:06):

Yep. The needs of... Thank you for your service. The needs of veterans and military service members are particularly acute in this space, as you know yourself, and there's a federal law called the Service Member Civil Relief... Credit Relief Act, that does provide some special protections in this space, and some things that they're supposed to do in terms of notice... I want to go back and look at those and think about them a little bit, but there may be room to strengthen those to avoid the kind of problems that you just described here.

(00:33:45):

Certainly, though, limiting the amount of time that these credit lines stay on your credit report, I know that that's come down now to seven years, is the current, but that's something New York could consider too, as to whether or not these trade lines are really probative, that tell you something about somebody's likelihood of repayment when they've been sitting on your credit report for five and six and seven years. You may be a very different person today based on more up to date information, and so what value those hold may be less significant than the credit reporting companies replacing on them.

John Lemondes (00:34:27):

Thank you.

Nily Rozic (00:34:28):

Okay, thanks. We've been joined by assembly member Niou, a member of the Consumer Protection Committee. Assembly member?

Yuh-Line Niou (00:34:34):

Hi Chris. Thank you so much for mentioning my bill, but also wanted to mention that I do appreciate the analysis, which I've found to be the same analysis that we've seen countrywide, that credit reports, when used on particular products, just is redlining really, for lack of better terminology and for accurate terminology. It really does exacerbate racial and economic disparities.

(00:35:11):

One of the things that I think maybe should be in consideration, I have been thinking about this bill for a while, and I think that the AG's office would be really great to lead the charge on this, would probably be something that would make it so that all state mandated products or federal mandated products like, for example, car insurance, for example, when we are mandating that we have to buy certain kinds of insurance or even wage bonds or usually bonds that were required by the state, should not allow credit score or credit history be determinant for the premiums. I just wanted to see what your thoughts were on that, and then to see if there were any other thoughts that you had on that kind of consumer protection.

Christopher D'Angelo (00:35:52):

Sure. We talked a little bit before you got here just about the use of credit reports in insurance determinations at all, whether it's pricing or access, and substantively, in our view, there's no basis for doing that, certainly in a product that's mandated by the state, where you have no choice but to purchase it in order to access a particular market. I think the arguments in favor of limiting the use of credit history in that space is even stronger.

(00:36:26):

That said, even where it's not mandated, you look at homeowner's insurance, it's effectively mandated. If you would like to...

Yuh-Line Niou (00:36:32):

Purchase a home.

Christopher D'Angelo ([00:36:33]()):

If you'd like to purchase a home, try to do that, unless you're one of those fortunate people who can purchase a house with cash, in which case, you probably don't have to worry about your credit report, but if you're not one of those folks, if you're the vast majority of folks, if you want to purchase a home, if you want to take that step in your opportunity forward, you have to purchase homeowners insurance, and so I think it applies more broadly, even beyond the state mandate, but I think certainly, state mandated products, I think that's true.

Yuh-Line Niou ([00:37:06]()):

I think that... I just wanted to answer another assembly member's question that he posed to you about just notification, and our notification bill would actually answer that question directly. I think that one of the things that people have questioned about is, "How do I know?," and then it would also stop fraud. I think that that was one of the biggest reasons why I wrote that bill, was to stop the fraudulent practices that were happening, identity theft, et cetera, especially when it came to some of the big credit reporting agencies getting hacked. So that was one of the best ways to be able to stop it, because if people started to notice that there was something fraudulent happening to their credit report, that would've been a good notification, and people would've notified if they had known that it was happening.

Christopher D'Angelo ([00:37:52]()):

So I think that's right. One of the good things industry has done is you see credit card companies now... I don't know if it's how... It's become more and more the case, where I get notifications now from my credit card company every time my credit score changes. I think that's been a huge positive step that industry has taken. It's in their interest too. If you're a credit card company and you want people to have stronger propensity to repay over time, having them be cognizant of what's happening to their credit report is a piece of that, and so it's actually been this mutually beneficial thing that we've seen happen, but I think any sort of state encouragement or requirement to do more notification, I think would be good.

Yuh-Line Niou ([00:38:41]()):

Thank you.

Nily Rozic ([00:38:42]()):

Great. Assemblywoman?

Jodi Giglio ([00:38:45]()):

Yes. Good morning, and thank you for being here. I wish the insurance and housing committees were here also, because there were a lot of questions that were brought that could be directed directly to them to where we could get some answers, but unfortunately they're not, so maybe they'll have another subsequent public hearing on those issues that we discussed about insurance hurdles and then also housing. So you said that there were many errors and inaccuracies on credit reports. Can you give me an example as to what type of errors we're talking about?

Christopher D'Angelo ([00:39:14]()):

Sure. It can run the gamut. It could be as simple as... I've had simple issues. My dad and I share a first name, but a different middle name, and the credit reports have confused us over time. That could be simple, but that's relatively benign. It can run all the way to the... You've paid off a debt, but because that debt got sold three or four times, somebody's reported that debt, they didn't fulfill their obligation to take that debt off of your credit report, and now it's sitting there and it's inhibiting your ability to go out and purchase a car or purchase a home and get a loan to finance that. Sometimes it could be even worse than that. So I'm fortunate the confusion is with me and my dad, and to the extent that there's confusion, he's got a pretty strong credit report, so it hasn't affected me, but what if the confusion is with somebody you don't know who has a similar name to you, and they've got debts that find their way onto your credit report, and how are you supposed to... Now you're in this sort of weird stream where you have to disprove that those are your debts to the credit reporting company, and they, of course, want to maintain these debts on there, because it's supposedly helpful to their customers in trying to assess whether or not you're likely to repay. So you're put in this tough situation. So there's a whole range of errors. Some of them can be quite harmful to consumers and their ability to fulfill whatever their dreams are.

Jodi Giglio (00:40:55):

Thank you. Every time I've applied for a credit card or for credit, I've always used my social security number. So if somebody had the same name, unless it was a library card, which is the only time that I really got into trouble when somebody had the same name, but anytime I was trying to borrow money, I used my social security number. So if somebody did have the same name, I would think that that would be a difference, but more importantly, to me, is when you talk about the rental discrimination and being able to use a credit report in order to access housing, and in speaking to many landlords through COVID, and even with the emergency rental assistance program where this state had said, "We're going to pay your rent," there were structural flaws in that program.

(00:41:38):

So as a landlord, how do you expect... I have a situation right now where somebody hasn't paid their rent for seven months. They were denied by ERAP. ERAP has no more money, so I don't even know why they're still taking applications, but they have been denied the rental assistance, and they're on appeal, and it's four months before they can get a hearing. How is a landlord expected to pay their rent if they can't check somebody's credit to make sure that they are going to pay the rent so that they can pay the mortgage or the note so that they can hold onto something that they've worked so hard for?

Christopher D'Angelo (00:42:13):

Sure. Yeah, and I understand. I actually happen to be a landlord. I've got a home where I used to live in Washington, DC that we rent out, and so I understand the sort of need to want to make sure that you can protect that asset.

Jodi Giglio (00:42:26):

Sometimes it's a requirement, especially if it's affordable housing and a landlord or a builder is required to do a credit check in order to put somebody in the building to make sure that the other tenants in the building are safe, but I'm sorry to interrupt. Please continue.

Christopher D'Angelo (00:42:40):

Sure, no problem, and I would say the question is really... It's about a balance here. So first, you've got a system today where you can check credit score, but that's not necessarily solved the specific problem you mentioned or the ones that other landlords might be facing. There may be other issues that folks need to address, and no system is going to be able to predict with absolute certainty whether or not you're going to be in a situation where someone is either going to deliberately or more likely find themselves in a situation where they're unable to pay the rent that they had hoped to be able to pay, but the question is, it's a balance of how you go about making those predictions and those determinations, and when you've got a system that's riddled with errors and historical inequity, versus up to date and current information, for example, about what someone's current job is and what their current salary is, which may be more predictive and less likely to be riddled with errors about someone's likelihood of repayment. There are other options that are out there that one can consider, that don't necessarily rely on looking at historical data that is, again, riddled with significant errors, particularly when that system wasn't really designed for that particular purpose, with that particular purpose in mind.

Jodi Giglio (00:44:09):

Thank you.

Nily Rozic (00:44:10):

Thanks, Chris.

Christopher D'Angelo (00:44:11):

Thank you.

Nily Rozic (00:44:12):

We're going to move on to our next...

Christopher D'Angelo (00:44:13):

Thank you very much.

Nily Rozic (00:44:14):

Witness, which is virtual. We have Chuck Bell, programs Director for Consumer Reports.

Charles Bell (00:44:27):

Hi, good morning. Thank you so much for... Hi, I'm... The programs director in the advocacy division at Consumer Reports. We have [inaudible 00:44:45] issues relating to credit reporting for many years. It's an area that's highly frustrating for consumers. There are literally hundreds of complaints that New Yorkers have made to the Consumer Financial Protection Bureau about disputes relating to credit report accuracy, and some years, the Federal Trade Commission and the CFPB, it's been the number one complaint category that they field and that they receive. We did a survey a couple years back where we found that 56% of consumers got so frustrated trying to correct credit report errors that they actually gave up. So it's not an easy process to navigate, and that is one basic fact that we have to understand about this area.

(00:45:33):

We just did a study in 2021 where we had about 6,000 volunteers from Consumer Reports request their credit reports and review them for errors. 29% of them told us that they found errors related to their personal information, such as their address or their name. 15% had accounts that were supposed to be in forbearance, such as student loans and mortgages, but they were incorrectly recorded on the credit report. It was showing that they still owed the money, and actually they had forbearance. 34% found an error relating to a way that a creditor had reported their account status or the amount owed, and 11% found errors related to account information. So for example, accounts that have been closed that were shown as still being open, and about 10% found it very difficult to access their reports.

(00:46:28):

One thing that everyone should know is that there is a special website called annualcreditreport.com, which is the one authorized site where consumers can get a free copy of their credit report from each of the three major bureaus, and during the pandemic, those reports were made available on a weekly basis rather than an annual basis, and that practice has been extended through December 2023. So this is always a good time to check your report for errors, and that is the one website where you can go and get a free copy of your report. Don't pay for the reports, don't get drawn into all these different websites on Google that are going to surcharge you for that right that you have.

(00:47:09):

So I have sent in some testimony, this is a really huge area, but the areas that I have focused on in particular in the last couple years have been the mission of credit reports to be used in particular for insurance and employment purposes, and so I put quite a bit in the testimony about those two issues. I testified before the assembly insurance committee about this issue last spring, and we are highly concerned that it is unfair to set auto insurance and homeowners insurance prices using credit history.

(00:47:44):

Credit history bakes in lots of past disparities, such as residential segregation, residential redlining, and in addition to that, it has nothing to do with your ability to drive a car and be a safe driver. So we have excellent drivers in New York state who have sky high premiums because companies are using their credit history to surcharge them, and Consumer Reports, in 2015 we did a study, we found that on average, statewide, that surcharge is about $1,600, but if you live in a high cost area like Buffalo, Queens, Brooklyn, the Bronx, you can actually pay a surcharge that's three to $5,000 just to purchase basic liability coverage, which is mandated by law. So as a consequence of allowing this sort of flawed method for insurance pricing, New York has the largest number of people who cannot afford basic liability coverage of any state. They have 5.2 million people living in about 28% of the state zip codes that cannot afford basic liability coverage, and there are three states that have banned the use of insurance credit scores, and those are California, Massachusetts, and Hawaii, and we believe that New York should do that as well, and a lot of our affordability problem for the low and modern income consumers would go away overnight if we could have a fairer pricing system that is based more on your driving record, your driving history and your actual risk while driving down the highway, than a socioeconomic factor like a credit score.

(00:49:25):

There's a similar concern with respect to use of credit checks for employment purposes. They were not developed for that purpose. They are riddled with errors, as our previous speaker was just saying, and it effectively screens out many low and moderate income people from getting jobs to help pay off the debts that they may have. So we just don't think that wise for public policy. There's about 11 states that have acted to ban the use for employment purposes. I know we have a bill here in New York introduced by Assembly member Dinowitz and Senator Sanders in the Senate, which has gotten serious consideration. New York City passed a law in 2015 to ban the use for employment purposes. So we think those are highly important things.

(00:50:13):

I would like to submit some annex my testimony relating to reporting of medical debt, because I believe that New York state does have the authority to restrict further reporting of unpaid medical bills, and sometimes providers are sending those to the credit reporting agency as a way of leverage to help get the consumer to pay bills that they may have disputed. We have an extreme system for medical billing and adjudication, which can stretch for very long periods of time, as probably everybody here in this room is aware, and so that's [inaudible 00:50:53] medical debt has a very special character in the credit system. It's also something that none of us can control, what type of medical expenses we're going to have or whether they may not be covered by insurance. So I think there's a lot of reasons for special consideration for that category in particular.

(00:51:11):

I know there's a bill relating to coerced debt that's been introduced by assembly member Rosenthal, and coerced debt is when you have an abusive inter partner who helps run up debts on your financial status, and then you're stuck with a credit report with a lot of debts while they've driven away in the vehicle that you financed or whatever it is, and there are two states, Texas and Maine, which have recently put in laws, some protections relating to coerced debt, and we understand that those are a good model for what we could do here in New York.

(00:51:47):

Another one... I do agree with the premise about notifying people when an inquiry is made. So assembly member Niou, thank you for that bill. We think that that could be a great benefit to consumers, and guarding against identity theft and fraud is critical in the 21st century.

(00:52:06):

So I think that those would be the main items I would really want to bring to your attention. We know there's a couple places where New York could clarify its law that could help with the accuracy question, and so I put in some provisions about that, that there's a law you could pass that would ensure that the Consumer Reporting Agency makes a more detailed investigation, and they need not investigate if there's a legal dispute to the information furnisher, but thanks very much. I'd be happy to submit more for the record and to work with you as you're going through this issue and help whatever way that we can. So thanks so much.

Nily Rozic (00:52:50):

Thanks, Chuck. We really appreciate your advocacy, your work on this, and for those who don't have the testimony, we'll be forwarding that along. In your testimony, you talk about how consumers should have control over their credit information and this idea of frozen by default. Can you expand on that a little bit more and tell us your thoughts on that?

Charles Bell (00:53:13):

Yeah, so a number of years ago, we worked with AARP and other groups to pass the law relating to a security freeze, which is something a consumer can elect to freeze their information, but it's really an opt-in type of process, and what that ensures is that somebody cannot open a credit account in your name without the bureau contacting you and asking to lift the freeze. So I think having that type of a protection in place by default would help consumers to stay more in charge of the credit accounts that they're opening up, and also to be able to decline those inquiries that are fraudulent. So that would really give people a lot more information and control about what's going into their record, and we would support provisions to create that.

Nily Rozic (00:54:04):

Great. Thanks. I'm going to pass it over to [inaudible 00:54:07].

Patricia Fahy (00:54:07):

Thank you. Thank you, Chuck, for being here today. It's a pleasure to see you, even if remotely, or on camera, I guess I should say, and I'd be remiss if I didn't start by saying thank you for all the work you've done on another bill, not the subject of this hearing, but another consumer friendly bill, and that's the right to repair [inaudible 00:54:24] just terrific.

(00:54:25):

So just a couple of quick questions. You mentioned the three states that now have banned the use of credit reports for... I think it was car insurance, and that was California, Massachusetts, and Hawaii. I asked a similar question of our previous panelists, but do you have any data or any preliminary information that shows whether that has helped with bringing down the cost of coverage, insurance coverage? Anything that is showing a difference there? I'm quite intrigued with this.

Charles Bell (00:54:58):

It has definitely helped the most vulnerable consumers in all those states to be able to maintain coverage that they can afford. So in a sense, this is really about the distribution of costs, because auto insurance companies file rate plans indicating the levels of risk that they anticipate and the amount of losses that they anticipate, and so in a sense, they use the rating and pricing factors to attribute those losses to different categories of people, and so in the system that we have, somebody could be an excellent driver and still get really dinged and have some of the highest premiums in the state, because they have poor credits. In New York in 2018, our DFS eliminated the use of education level and occupational title to set prices, and they asked the companies if they really felt that they could justify quoting different rates to people who are home care workers versus somebody who's a vice president of a bank or something like that, and they declined to provide that justif-

PART 2 OF 4 ENDS [00:56:04]

Charles Bell (00:56:03):

Of a bank or something like that. They declined to provide that justification and they withdrew those two factors, so we don't use those in New York today. With respect to credit history in these other states, what's happened is they have fairer prices for working-class drivers and people are able to afford coverage and not drive without insurance, which sometimes happens when the price is extremely high. We think it has... The perverse thing with the New York system is in this study that Consumer Reports did in 2015, we found that somebody who has a driving-while-intoxicated conviction actually pays $500 less than someone with poor credit, if that poor credit person is an excellent driver, but the person who has excellent credit but it's a dangerous driver, pays a lower premium under the New York system. That sends the wrong signal to people about how to conduct themselves on the road.

(00:57:04):

Under the system that I'm advocating, riskier drivers would pay higher costs and that sends the right market signal to people who are in fact riskier. Using credit scores to presumptively determine that someone is going to get into an accident and yet that person is an excellent driver with no safety violations or accidents, that just doesn't make sense and it doesn't make sense to any consumers that we talk to. We think, though, other states have really taken the right path on that. It's also a form of systemic racism, I would say, because the rate of subprime credit scores in New York is about 27% in communities of color, in white communities about 10%, so there are racial disparities that are reinforced by using credit scores to set insurance rates.

Speaker 1 (00:57:56):

Great. Thank you. Thanks so much. Very helpful.

Nily Rozic (00:57:57):

Assembly member Niou.

Yuh-Line Niou (00:58:03):

Hi, Chuck.

Charles Bell (00:58:05):

Hello.

Yuh-Line Niou (00:58:06):

First, I want to thank you for your testimony. I also wanted to say thank you for your very strong support throughout the years fighting fraud, identity theft, and also redlining in particular products. Just harm to consumers done that way. I wanted to follow up on your statement about the 2015 study. For the record, just because people need to know. I know you know, but I think that we need to make sure that for the record. For determining credit score and then having credit history, if somebody is newly to the country within the last 10 years, what possibly could their credit history and credit score contain? What would actually determine for somebody and harm somebody's credit score? When determining those premiums, what does it actually say? Because a lot of times, a lot of these companies will say that it helps to determine risk of a person, but really, is it just to sell products?

Charles Bell (00:59:21):

Right. There's a concern. There are many people, I think it's roughly at least 10% of the population that is credit invisible, so they have not participated in the credit system enough, utilized credit cards, personal finance loans, or anything to really cause them to have a substantial record within the credit bureaus. Those folks are subject to being surcharged by insurance companies for their lack of participation in that system. Another problem we have, a really huge problem if you think about it, is the insurance companies use a secret proprietary insurance score, which is not the FICO score. It's not what you see necessarily when you examine your Experian or TransUnion report. They cherry-pick different variables from those reports and come up with a proprietary score, which is different from company to company and consumers can't even see that score.

(01:00:21):

Sometimes their credit scores are calculated based on the different types of credit that you use. For example, if you use an auto repair credit card, that's not considered to be a high quality type of credit as, say, a credit card from a major bank. There are just lots of things in there that consumers would never know. The game is rigged and can't even find out what the rules are, so there is a lot of reason to be concerned that this has a disparate impact on new Americans, people speaking other languages, have different national origin. Certainly on Hispanic and Black consumers, it has a disparate impact and it would not be allowed in other parts of the financial system, were it not for the fact that it's an insurance product. Insurance has escaped a lot of the modern civil rights protections that we have.

(01:01:13):

Also for homeowners insurance, we know people who have poor credit are on average charged 155% more for their premiums. If we think [inaudible 01:01:23] people who are struggling to maintain the affordability of their housing, that's not a helpful thing either and we should also eliminate that [inaudible 01:01:31], if we can.

Yuh-Line Niou (01:01:34):

Thank you.

Nily Rozic (01:01:35):

We've been joined by assembly member Taylor. Assembly member Angelino.

Joseph Angelino (01:01:42):

Thank you very much... It's Mr. Bell, I believe. Yes, thank you. You just said something that sounded sinister and it took me aback when you said the secret score that auto insurance companies have, which distracted me from my original question, because it's similar. What justification does an auto insurance company use to have the different rate based on a credit score? Somewhere there's an actuary who must have something and I'm just curious, because I can't get the correlation how credit score impacts the auto insurance rate. What is the auto company's... Excuse me. The insurance company's justification?

Charles Bell (01:02:27):

They argue that it's predictive of the risk of that customer and that customers has a higher propensity to submit a claim or to experience a loss. A loss in terms of a damaged vehicle, getting in an accident. A claim that the insurance company will have to pay. What we believe is there's no proven causal link between these two activities and they have not demonstrated in the pub square what that link is exactly. We think it's unfair, because consumers can't control how they're being evaluated and assessed in these secret scores, which you literally cannot have a look at. It's also unfair to pile all the losses on the back of the lowest income and most vulnerable consumers in the society, so we also think that even if there is some correlation to use this to the extent that they're using it, where it has greater weight than any other single factor, even greater than your driving related factors like number of years of driving experience, number of miles driven per year and safety record, that's really unfair. It's really concerning.

Joseph Angelino (01:03:47):

I had the question formulated in my mind, but then when you said "The secret factor," that answered my question. How do they justify it? Can you give me an example? We've been talking about housing, medical, and auto insurance, but can you give me an example when the credit score is important and should be used? Because it sounds like we're piling on these agencies that keep the FICO scores, but there's got to be some justification for this.

Charles Bell (01:04:19):

Yes, so-

Joseph Angelino (01:04:19):

My concern is we're turning into an electronic, I don't want to say crypto, but direct deposit and cash is becoming less and less. I think we're going to need to pay attention to this.

Charles Bell (01:04:35):

Credit scores were originally developed for granting purposes to predict the ability of someone to pay back money that you're loaning them. For credit cards, I support the use of credit scores. I'm highly concerned that there's so many errors within them and that it's been a long standing problem for the entire time I've had my career. Since I started 30 years ago, we have severe problems with credit report accuracy, but leaving that aside, it does give you a window into a person's ability to pay back a loan that they're taking out. With respect to employment and insurance, we see that as a form of mission creed into other sectors of the economy for which this [inaudible 01:05:15] designed. Maybe other instruments could be developed, but with insurance, if you don't pay your monthly bill, they just terminate your coverage, so they're not using it to estimate propensity to pay.

(01:05:27):

I have another contemporary example where credit reports and scores are important, which is we've just done a big report on this new type of financing called "Buy-now-pay-later loans," which are short-term, usually 0% interest loans that you pay back after six weeks. You put 25% down and then make three other payments in six weeks. Rapidly growing form of financing, lots of retailers and stores are using it, but they have very inconsistent approaches for reporting debts to the credit reporting companies, and also origination of their loans. Literally, their providers don't know how many other people have taken out a buy-now-pay-later loan, because they launched this product as a FinTech product and made it much easier to apply for than the credit card.

(01:06:17):

As a consequence, some consumers are stacking up multiple loans, had more than 10 loans open in the last quarter of 2021, and get behind on the payments. I would say credit scores really do have a role in the consumer finance economy for things like that, but I think insurance is a special case where we mandated for everybody. To the extent that five million people in New York can't afford it, the state really needs to be highly concerned about that.

Joseph Angelino (01:06:42):

Thank you.

Jodi Giglio (01:06:48):

Music to my ears, because I have a 20-year-old and twins that are 19, and my car insurance rates went through the roof based on their inexperience in driving and their history, which they don't have a credit history. This is music my ears. I'm just curious about, when it comes to the medical insurance, because in New York state we have a very generous medical policy, where if you're here 30 days and you have an emergency, you need to go to hospital, you get treated. My daughter did have some serious health issues and I've spoken to some of the people in admissions that say that you can come to New York, be here for 30 days, and you can get a bone marrow transplant for $500 when you walk into the hospital. If you're a newcomer to New York, they don't ask for a credit report or anything, just a check for $500, and you can go in and get a bone marrow transplant.

(01:07:44):

It's really affecting the hospital's ability to keep up with the care and keep beds open for New Yorkers, so I'm just curious as to whether or not you think that it's a good idea for newcomers to New York that are only here for 30 days to be able to... That the banks could be able to ask for a credit report on them if they come from another state just to make sure that they're able to pay the bill? We can actually find out where they came from, what their address is, what their social security number is, or where we can find them to collect that debt. People that have social security numbers, that are New Yorkers, that go into a hospital, they can be treated when they fill out the information and give their social security numbers. The bills do come, so I think that there is... Do you think that a credit report should be used for people that are new to New York, that are seeking medical care?

Charles Bell (01:08:38):

This is a highly complicated issue that you're raising. In my experience actually, people who are brand new to the country and presents-

Jodi Giglio (01:08:52):

[inaudible 01:08:53].

Charles Bell (01:08:52):

The state, okay. Brand new to the state. If they don't have insurance coverage, their care is limited. I'm not familiar with people being able to just walk in and get a bone marrow transplant. What I see is people are able to go to the emergency room, get some emergency care, and then typically they're going to work in our nonprofit clinic system to get other types of primary care. A lot of those people do struggle to get access to more advanced types of care or surgery. Leaving that aside, I think we need to be responsible for medical expenses we are incurring. In many cases, however, there are clients or consumers in New York who are qualified to get financial systems from nonprofit hospitals and are not being informed of the programs that they could in fact qualify for to help avoid having that debt in the first place.

(01:09:53):

We have a national crisis of medical debt right now with over 100 million Americans who have medical debts and unpaid bills that they can't pay. It relates also to this system where lots of people have high deductible plans, so every time they go to get care, they're being asked to make large co-payments and so on. There's a lot that goes into this, but I think the main thing that we are concerned about is we don't want unfair unpaid medical bills being sent to credit reports in particular, and because it takes six months to a year often to adjudicate the bill and get the insurance company to match the code that the provider has made, there has been a lot of abusive reporting to credit reports just to put leverage on the patient to pay the bill, whether it's justified or not. The other part about that is people can't control necessarily if they have a catastrophic illness or accident.

(01:10:53):

Using those debts to help run up their credit score and make it more difficult for them to pay their other bills is also really a problem. I appreciate, though, we have to keep the bills and the revenue coming into the hospitals and [inaudible 01:11:06] I have hospitals. There are no argument for me about that point and I think we have to look at the multiple sides of this issue.

Jodi Giglio (01:11:17):

Thank you.

Nily Rozic (01:11:17):

Okay. That's it, Chuck. Thanks so much.

Jodi Giglio (01:11:17):

Thank you.

Charles Bell (01:11:18):

Fantastic. Thank you so much and good luck with your efforts to investigate this issue.

Nily Rozic (01:11:21):

Thanks.

Jodi Giglio (01:11:22):

Thank you.

Nily Rozic (01:11:22):

Our next witness is Carrie Tracy, the senior director of health initiatives at Community Service Society of New York. Welcome.

Carrie (01:11:33):

Thank you. Hi, I'm Carrie. Thank you for having me here to testify today on this really important issue. I'm going to be focusing on medical debt. I work at the Community Service Society.

Nily Rozic (01:11:55):

Just push your mic towards you.

Carrie (01:11:56):

Okay.

Nily Rozic (01:11:56):

Yeah.

Carrie (01:11:57):

I'm a little short.

Nily Rozic (01:11:58):

Great.

Carrie (01:11:58):

Thanks. We focus on eliminating inequities and helping folks with economic opportunity. I work in the health initiatives department. In the health initiatives department, we help folks get insurance and we help them use it. We help over 130,000 people a year, New Yorkers. One issue that we've seen a real increase in recent years is the problem of medical debt, so we did some investigation. Medical debt is the most common type of debt that's reported to the credit bureaus. In an effort to address this, the Financial Protection Bureau recently issued guidance that bars medical debt less than $500 to be reported to credit reporting agencies. That doesn't go far enough in states like New York where we have very high medical costs and we also find that there's significant racial disparities in impact for medical debt. 6% of New Yorkers overall have passed due medical debt on their credit reports, but we see there's a real range in different counties. Ranging up to 26% in Chemung County. Those numbers overall mask some pretty serious racial disparities, so there are 14 counties where residents in majority white zip codes are much less likely to have medical debt on their credit reports than folks who live in majority communities of color. One example of that is in Westchester County that has the biggest racial disparity. 2.5% of people in majority white zip codes have medical debt on their credit reports, but 7.9% of people who live in communities of color have medical debt on their credit reports. That's a 319% difference. We see these racial disparities in credit reporting around this state. In addition to the disparities in the rate of medical debt, there's significant differences in the amount of medical debt that people have. Here in Albany County, for example, the median amount of medical debt in majority white communities is $456, so that's below that $500 threshold that the federal government adjust that for reporting to credit agencies, but in communities of color, that median debt is $889. Not only are people in communities of color in Albany County more likely to have medical debt, but they're more likely now to have it reported to the credit agencies.

(01:14:40):

Medical debt is different from all the other kinds of debt that might be reported to a credit agency. It's not something that you do voluntarily. Even if it's not an emergency situation, people don't have a choice. In fact, we do find that people often... 38% of New Yorkers said that they were avoiding necessary care that their medical provider told them to get, because they were so afraid of incurring medical debt. Generally people, when they get the care, it's not because they choose to. Medical care is really unique among things that people purchase, because it's so difficult to comparison shop. How often are you able to really understand what your medical care is going to cost? We have consumers coming to us who did all kinds of research, did everything they could to find out how much their bill would be when they went in for a service, and they still end up with surprise bills. We also know that there are frequent cases of medical debt that get reported to credit agencies that people don't necessarily owe. A lot of times people are contesting the bill, they think that the bill that they received is wrong or they think that their insurance company should have paid it. They're in the process of reporting it and that happens. We also know from surveys that... I think it was 24% of people in New York said that they paid a bill that they believed they didn't owe, because they were so afraid of the consequences of not paying that bill.

Patricia Fahy (01:16:01):

Interesting.

Carrie (01:16:03):

Additionally, as Chuck mentioned, in New York State, we have the Hospital Financial Assistance law. 1.1 billion in [inaudible 01:16:09] care pool funding goes to hospitals, so that they can provide care at a discount to people who are uninsured and low income. The state's own audits of the hospital financial assistance shows that hospitals aren't following the law and people who qualify for financial assistance aren't informed. Our recommendations are, first, that the Consumer Financial Protection Bureau has issued an opinion that says that states aren't preempted from providing more protections for their consumers, so we think that New York state should say that medical debt doesn't belong on credit reports at all. An interim step would be to pass S8118B, which assembly one, zero... I don't have my glasses on, sorry. 10183A, it's in the thing which would say that consumers can report economic hardship due to the pandemic.

(01:17:04):

Things like COVID-related medical bills wouldn't be reported on their credit ratings. We also need to take more action to make sure that people don't end up with medical debt in the first place to be reported. Patients take out loans and credit cards to pay for their medical debt, that's an increasing thing, and that wouldn't be affected by any of our medical debt protections. We can make health insurance more affordable to more New Yorkers by passing Coverage For All, which would offer low-cost... Actually, free coverage to everyone regardless of immigration status through the essential plan. We also need some modernized and increase implementation and enforcement of our hospital financial assistance law, so that the people who qualify, as Chuck said, for financial assistance, receive that financial assistance. There's no bill that they can't pay and they get sent to... Thank you very much for giving me the opportunity to testify.

Nily Rozic (01:18:03):

Thanks so much, Carrie. Okay, chair Fahy.

Patricia Fahy (01:18:08):

Thank you. We're hearing a lot about medical debt and I think I'm one of those who actually paid a bill as well to make sure that it didn't goof up my insurance, given I have too much experience with medical bills. Just a very quick question on your staff. The Commonwealth Fund estimates that 25% of people with employer-based health insurance are underinsured. Is that because of the confusion that you just alluded to on how hard it is to pick a policy, is that because they may not realize, or is that because the employer is not offering the full insurance? Can you just drill down for a moment on that?

Carrie (01:18:51):

Yeah. Under insurance is a term of art. It refers to what Chuck mentioned, that a trend right now is for insurance policies to have much bigger deductibles, bigger cost sharing, bigger copays. We see a lot more people going to the... Providers have their insurance pay, but then still ending up with a big bill themselves.

Patricia Fahy (01:19:14):

That's part of what is fueling this problem of medical debt, which is-

Carrie (01:19:17):

That's one of the factors, yeah.

Patricia Fahy (01:19:18):

... tripping up folks on their insurance rates. Okay. Thank you so much.

Carrie (01:19:21):

Sure.

Nily Rozic (01:19:22):

Thanks, chair. Assembly member Taylor.

Al (01:19:26):

Thank you. Am I on here?

Patricia Fahy (01:19:27):

Yes.

Al (01:19:28):

Certainly, I want to thank the chairs for convening this hearing this morning. Carrie, thank you. A statement and a question. Statement is highly educated folks, successful folks here have acknowledged a debt from what I can understand thus far in my short time sitting here. We know that there is legislation and on the books that says, if it's under 500. Think about all those thousands of people, millions that are even below where we're at. When I say below, they don't even have time to lift their head to even think about it. We wonder why people don't go to the physicians? Because they can't afford it. If we're choosing between food, car service, or whatever it is in the household, in the immediate, if it's not falling off or stopping you from breathing, I'm not going there, because I'm going to incur another expense.

(01:20:27):

My question is pretty much in New York City, I'll use as an example, on the federal level, we've described everything. How much sugar is in there, how much fat is in there? Yada, yada. You have to report. Unfortunately, there's not enough reporting when it comes to hospitals and what the cost of fair cost is, so if I go to McDonald's, pretty much if I'm getting a Happy Meal, there's a Happy Meal across the country, pretty much in the same scope. When I go to hospitals, I don't know how much it's going to cost to get a bandaid or some other minor... What would you say would be most helpful in that area? Because that's a direct correlation to why people are in debt. If we could take this totally off, then there's a possibility... I'm a half $1 million in debt just in education and it's not mine, but it's for my children.

(01:21:16):

I'll do it all over again to make sure they get a better opportunity, but we have to stop the bleed. If we are looking at this and we're saying... Because this is only one aspect of it, it has to come from a holistic approach. How do we do that? One, making sure that hospitals are not overcharging, there's a fair equity, and everybody can eat, because you have people working in the hospitals that cannot afford to go back in there for services. What would you recommend in that case? That's a long statement and a question.

Carrie (01:21:42):

Yes. Actually, at the Community Service Society, when we first started working on medical debt, that was a big complaint we heard from patients and clients. When they went to get a service, they had no idea how much it was going to cost and that hospitals told them there was no way that they could predict it. Which as you said, anywhere that you go, any service that you purchase, the person's able to tell you before you buy it what it's going to cost. We worked with Assembly member Gottfried and Senator Rivera who introduced the Patient Medical Debt Protection Act and it included a provision that said that before you go to the hospital, the hospital should be able to give you a detailed bill ahead of time that lays out what all of your costs would be and then your insurance company could tell you what they would cover and what you would owe. That hasn't passed yet, but we would love your support with that legislation.

Al (01:22:31):

Thank you so much, Carrie. I appreciate the work that you all are doing over at Community Services Society. Thank you much and big shoutout to the president.

Carrie (01:22:40):

Thank you.

Nily Rozic (01:22:41):

Thanks. We've been joined by Assembly Member Fall, assembly Member Manktelow.

Brian (01:22:46):

Thank you, chairwoman. Good morning, Carrie, and thank you for your testimony. Just a couple questions. I looked over some of your stuff now. I actually took a quick look at your website as well this morning. You're based out in New York City, correct?

Carrie (01:23:00):

Yes.

Brian (01:23:02):

Are you doing this for just New York City area or across the state?

Carrie (01:23:06):

No, our work is statewide on healthcare. It's something that is really regulated on a statewide basis, so that's the appropriate context for studying it.

Brian (01:23:15):

Okay. I was looking at some of your testimony earlier here. Is your agency looking at any of the debt that our senior citizens have for medical expenses?

Carrie (01:23:28):

I didn't talk about it, but my colleagues, Amanda Dunker and Elisabeth Benjamin, did a series of reports called Discharged Into Debt. To do those reports, we pulled court cases, a random sampling of court cases from around the city, and a couple of locations upstate. We actually pulled the cases and read what happened in the files. A majority of cases were just default judgments, the people who had been sued didn't know that they'd been sued or they didn't.

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Carrie (01:24:03):

... who had been sued didn't know that they'd been sued or they didn't have the ability to contest it. And then some folks did go to court and wrote what their experiences were. So, we've done some research on medical judgements overall, not just seniors.

Brian (01:24:17):

Because I know across the state, across our country, our seniors are, they're very much on a fixed income. And that medical debt as we get older of course, is probably used more and more, at least in my case. I just want to make sure we're taking a look at them as well and making sure they're on the radar. And as my fellow Army veteran here had asked earlier on another testimony, are we looking at veterans in general as well or no?

Carrie (01:24:46):

So we looked at cases that were in civil courts. I'm not sure....

Brian (01:24:52):

I mean a veteran that's retired.

Carrie (01:24:54):

But yeah, overall we are looking at the issue across the board and we do find that Medicare is an amazing program. It's made huge difference in helping seniors and bringing them out of poverty. But there are large cost sharing requirements involved in Medicare. So that is an issue that's been a problem. I'm not as familiar with the cost sharing requirements for veterans care.

Brian (01:25:17):

Okay. So that's something we're not taking a look... Or your agency really isn't looking at this point.

Carrie (01:25:21):

We haven't specifically researched that as a separate issue.

Brian (01:25:24):

Because New York has so many veterans and...

Carrie (01:25:26):

Absolutely.

Brian (01:25:27):

And they've given to this country to protect us and serve our country. I hope that we take a look at them in the future.

Carrie (01:25:33):

Thank you.

Brian (01:25:34):

But thank you for taking the time to come down. Appreciate your comments.

Carrie ([01:25:38](https://www.rev.com/transcript-editor/Edit?token=)):

Thank you.

Speaker 2 (01:25:38):

Okay, assembly member.

Hon. John Lemondes (01:25:39):

Thank you. Carrie, you had mentioned that hospitals are not following the laws and so two questions. One, could you go into more detail about that and second, your statement here, billing errors, opaque pricing, labyrinth administrative processes couldn't be any truer. If you could go into more detail on what we can do to help reduce the number of bills, how they come, when you have three sheets of paper or four or five and somewhere in there it says, "This is not a bill, do not pay." It is so opaque, as you've said. I only speak for my family. This drives us crazy. Routine medical care or emergency care, there's no difference. It is really tough to determine what's legitimate, what's not. My wife goes crazy trying to take care of our children's medical care. And if this is happening to our family, this is happening to everybody's family. So, it's something that I couldn't agree more with that we foster things.

Carrie (01:26:53):

Absolutely. So the community service society leads the state's designated consumer assistance program, community health advocates. And so through that program we help people use their insurance. We help with problems like how to get a new insurance card or we help people with bills. There's like a lot broad spectrum of problems people have using their insurance. And I've watched colleagues sit down with a client who pulls out big garbage bags or big grocery bags, just pulls out page after page after page of bills. And so my colleagues will sit down with some and sort it all out on a table this size and figure out which are duplicates, which they've paid, which they have to talk to their insurance about. It's a serious problem. And as I said to assembly member, Taylor, we have advocated for legislation that would require the hospital to provide just one simplified bill.

(01:27:41):

So when you go to the hospital... When you go to the restaurant, you don't get one bill from the chef and one bill from the waiter and one bill from the bus boy, right? You get one bill that includes all the information. And so the OR hospital should be able to give you ahead of time and then afterwards just one bill that says this is all of the things and it should explain in plain language as well as the CPT codes, the coding to the person exactly what they did so that the patient and an advocate can go through and make sure that they actually had all the care that's listed on the bill and it's appropriately coded and appropriately charged insurance. So that is one answer. And then the hospital financial assistance law. So this is something I feel really passionate about. I've written a couple reports that are on our website.

(01:28:29):

So in 2007, 2008, Manny's Law was passed and it says that every hospital that receives funding from the engine care pool has to follow certain... Has to offer financial assistance up to 300% of poverty to folks who are uninsured and can't afford their care. And instead of... So the Department of Health provided just a one page application form as that guide to hospitals, but didn't require every hospital to use that. And so every hospital in the state has come up with a different application form and there's like churned within the course of five months between when I started a report and when I finished at hospitals might have different forms. So it's really hard for patients to find them and to understand them and they ask for all kinds of things that don't comply with the law. So this department of health in 2012 started auditing these hospital financial assistance policies and it's an open book test.

(01:29:16):

They send the same questionnaire every year to hospitals and hospitals continue to get the same answers wrong year after year. And so it's demonstrated that the hospitals aren't able to do this without more guidance from the state. So the legislation that we list in our testimony would require every hospital in the state to just use one simple application form that the Department of Health provides. Then every patient can find it, advocates can help, and then it modernizes, it increases the income level to sort of comply with ACA standards and things like that.

Hon. John Lemondes (01:29:49):

Thank you.

Speaker 2 (01:29:50):

Thanks. Assembly member Giglio.

Jodi Giglio (01:29:53):

Yes. Well thank you for what you do and you must wake up in the morning and feel really good about yourself and helping many people to access healthcare. Question that I have for you is you indicated that you help people with access to services and to the billing information to help them sort through everything. Do the hospitals, when it's determined that a procedure is required, do they give an estimate as to how much that's going to cost? And are you able to figure out how that's going to be paid for after the procedure? So that's the number one question. And then I guess that's one.

Carrie (01:30:32):

Yeah. So before the procedure hospitals don't provide you with that detailed accounting of what it all costs that we think is important to get.

Jodi Giglio (01:30:41):

Is that in this bill 10183?

Carrie (01:30:43):

It's not in this bill that we've listed here. I'm sorry, I can get that bill number to you later.

Jodi Giglio (01:30:50):

Oh, there is a bill already for it.

Carrie (01:30:51):

There is a bill already. It was introduced a couple of sessions ago as the patient Medical Debt Protection Act, assembly member Godfried and Senator Rivera were the lead sponsors on that legislation.

Speaker 3 (01:31:02):

And what, sorry, I said that again. Assembly. Can you speak in...

Carrie (01:31:05):

Sorry. Assembly Member Godfried and Senator Rivera.

Speaker 3 (01:31:08):

Thank you.

Jodi Giglio (01:31:09):

So it'll give the estimates on the services that they're seeking.

Carrie (01:31:12):

Yes. The ideas that they would have to give you a statement ahead of time that lays out exactly what it would cost, what all the services are, and then afterwards you would get one bill that has everything.

Jodi Giglio (01:31:24):

That would probably make your job a lot easier.

Carrie (01:31:25):

It would make it so much easier really. But afterwards we do spend a lot of time with patients going over the bills that they got, trying to determine what insurance should be paying and what they should pay, and then helping people to apply for financial service, financial assistance if they qualify for it. Yeah.

Jodi Giglio (01:31:46):

Okay. Thank you.

Carrie (01:31:47):

Thank you.

Speaker 2 (01:31:49):

Great. Thanks Carrie. Appreciate it. Our fourth and final witnesses, Wilfredo Lopez, director of Government Affairs at the Urban Resource Institute and he will be virtual.

Wilfredo Lopez (01:32:07):

Good morning. Can you hear me?

Speaker 2 (01:32:08):

Yes.

Wilfredo Lopez (01:32:11):

Great. Good morning. My name is Wilfredo Lopez. I'm the director of government affairs at the Urban Resource Institute, which has been in operation for over 40 years. And during that time we have grown to become the largest domestic violence shelter provider in the nation. Thank you for the opportunity to present testimony today and for shedding light on this issue of critical importance. To be sure the consumer credit reporting system plays an outsize role in an individual's ability to apply for credit, take that a loan by a home or lease an apartment and participate in other aspects of everyday life. As has already been pointed out. The system is right for reform and as material errors are common and can and do have significant long-term deleterious impacts on one's credit worthiness. But even when operating optimally, the consumer credit reporting system does not adequately serve the needs of a class of particularly vulnerable consumers.

(01:33:05):

Consumers who have experienced domestic violence and more specifically economic abuse. Economic abuse is pervasive in nearly all survivors of domestic violence. Between 94-99% report that they have experienced economic abuse. Economic abuse first defined in a 2022 reauthorization of the Violence Against Women Act defines economic abuse as behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to restrict a person's access to money, assets, credit or financial information. Unfairly use of person's personal economic resources including money, assets and credit for one's own advantage. Some common examples of economic abuse include taking awe or part of a domestic violence survivor's income, limiting their ability to work, restricting them from accessing their identification and or other personal documents, identity theft and coerce that identity theft is often a common occurrence for survivors and one that is not always easily rectified.

(01:34:19):

In order to remove fraudulent activity from a credit report, a survivor needs to have an identity theft police report. In New York City, survivors are allowed to go to any precinct and obtain this police report. Unfortunately, when police hear that the person has experienced domestic violence, they have said things to survivors like this is a family issue, not a police issue. Or take it less seriously and refuse to give a police report. This is in turn saddles a survivor with the debt they didn't even know they had and impacts their ability to find housing and move forward. In the context of economic abuse, coerced debt is a non-consensual debt that was incurred through fraud, arrests, intimidation, threat force manipulation, or undue influence. Abusive partners often use force or threats in order to open credit card accounts or take out loans using survivors names or do so without their knowledge.

(01:35:12):

According to a report called Reinvesting in Economic Justice, Equity and Solidarity for Survivors in New York City, a survivor center policy platform recommendation for course debt housing, public and solidarity economy states that in New York City alone more than one in three survivors of domestic abuse who need domestic violence related consumer services also have consumer credited issues. Survivor cite financial obstacles as among the top reasons that they stay or return to an abusive relationship. Even when a survivor is able to leave. The impact of financial abuse and course debt lasts long after the abuse ends and has wide ranging impacts to a survivor's life. Accumulated coercive debt and make it difficult for a survivor to qualify for housing, get a new cell phone, take an auto loan or access to capital needed to rebuild the life of safety and stability as it is currently designed, the system places the considerable burden of providing that debt has been coerced on a survivor, but neglects to provide survivors with effective tools to do so.

(01:36:15):

Though other states have doubted the legislation governing the classification and treatment of coerced debt, there are no laws in the books in New York specified specific to coerced debt. Survivors of domestic violence cannot raise coerced debt as a defense and civil or criminal matrimonial claims unless they have filed an identity theft claim with law enforcement. And as a result of poor training, law enforcement is ill equipped to handle these types of cases. This leaves most survivors holding the bag for hundreds, sometimes even thousands of dollars in debt that they did not incur. URI has been working with a broad coalition of advocates to develop survivor-centered solutions to economic abuse. Recently we've partnered with assembly member Lind Rosenthal, a new legislation bill a10677 that would allow for a victim of course that to provide notice and evidence to a debtor or collection agency that a particular debt is coerced.

(01:37:09):

The bill will create a process whereby the debt collector would be required to investigate the debt and upon sufficient evidence and without finding an identity theft, relieve the survivor of the legal responsibility of paying for the debt. The creditor would then be required to contact the credit reporting agency to remove the debt from the survivor's report and would then be empowered to attempt to collect the debt from the abusive party.

(01:37:36):

This legislation specifically creates a cause of action for survivors of coerced debt, which would under certain circumstances allow them to seek a declaratory judgment that a debt is coerced, which would make the abusive person civilly liable to the creditor for the debt or to the survivor if they have already paid off all the debt. California, Texas, and a handful of other states have adopted similar protections for survivors in the federal, sorry. The federal government via the CFPB, has recently regulations to block the reporting of diverse information to credit reporting agencies from sex trafficking. URI looks forward to working with members of this, these two committees and along with some member Rosenthal to see this bill come long. Thank you very much.

Speaker 3 (01:38:25):

Okay, thank you.

Speaker 2 (01:38:28):

Okay, assembly member Taylor.

Al (01:38:31):

Thank you. Am I on? Okay. Just for clarity, I don't if this in reference to the bill 10677, just for clarity, the action stops. It gives the individual an opportunity to go back and present the facts of DV that would relinquish them from being responsible for that debt. My question is, does this bill also stops the creditor or the original debt holder from selling that to someone else? Because once it's out the door then well we're collecting on a bill that we bought somewhere else. Does this address that?

(01:39:13):

Thank you so much. I guess I wasn't on.

Wilfredo Lopez (01:39:16):

I heard your question in some memory. Appreciate, thank you so much. As far as I understand, it does not stop a creditor from selling the underlying debt. However, when you're purchasing an underlying debt, you're still responsible under all the current state and federal regulations to comply with any orders that are given. So if and when the survivor is applying or going to court to fight this, whoever the current debt holder would be, the person responsible for making sure that the debt is being either forgiven or taking off that person's credit report.

Al (01:39:54):

Okay, so recap That means that the person that purchased that debt is not off the hook for the legislation that we're proposing. They would still be responsible for giving relief to that individual?

Wilfredo Lopez (01:40:09):

That is correct.

Al (01:40:09):

If not, okay. Thank you so much. I appreciate it.

Wilfredo Lopez (01:40:12):

No, thank you for your question.

Speaker 2 (01:40:14):

Thank you. Assemblywoman.

Jodi Giglio (01:40:16):

Yes. Well first I want to thank you for what you do because I know that there are a lot of victims of domestic violence and they don't have anywhere to go and the amount of beds that you provide for these survivors of domestic violence is very important work. So thank you for that. I appreciate that. When you're talking about assembly bill number 10677, what triggers... What can stop a spouse or a significant other from incurring debt to a partner? Is it a police report? Is it entering into sheltered housing that as of that date than the partner or the spouse can no longer incur any debt using the spouse or the partner as a social security number and as a signee onto the debt? Because normally when you incur debt, you have to sign something saying that you're agreeing to pay the debt back.

(01:41:05):

So I'm just wondering if what your recommendation is to put something in place to trigger that. Because in speaking with law enforcement and cashless bill when there is a victim of domestic violence and there is a charge that is filed by the person that has been committed against the law enforcement takes that person away and then releases them right back to where they go right back to the same house that they just came from. They can't hold them. And that to me would be something that someone might the next day say, I'm going to go out and buy a new car and I'm going to sign your name to it and you're going to pay for it. So at what point can you stop a partner or a spouse from incurring debt? What point? What can be done to stop that from happening in a domestic violence situation?

Wilfredo Lopez (01:41:56):

Well, thank you for your question assembly member. Unfortunately, as it stands right now, there is little that can be done to stop it and that makes the work we do that much more important. The reality is that although in conventional wisdom would tell you that you would have to sign for any sort of debt incurred, the reality is that with today's technology, a lot of the debt that is incurred through consumer credit is done online. So there's nothing really stopping an abuser from logging on, having the information from their partner and using that information to incur large lines of credit or even get a auto loan. And in some very extreme circumstances, even purchase property. So that is something that occurs every day and unfortunately there is little recourse available to the survivors in order to discharge that debt. And the whole purpose of advocating for a change in legislation is to create a civil cause of action that will allow a survivor to either proactively or defensively claim coercion as a means to discharge the debt that's incurred.

(01:43:13):

Because the reality is that any debt that is coerced cannot be complied. Contract law does not allow for coercion in order to allow a contract to stand. So the real purpose is to create that cause of action and allow survivors some sort of recourse to discharge the debt. Now that doesn't stop the debt from being incurred upfront.

(01:43:35):

A lot more has to go into that. And that really is going to take an increase in resources and training, not only from a law enforcement perspective, but also from providers to really suss out all of those economic challenges that survivors do face being able to articulate it and being able to inform the public about the fact that these things are happening. So when a survivor comes in and gives a report, those questions are being asked so that if a freeze needs to be put on their credit port, it can be done. Or in order to encourage survivors to proactively look at their credit reports when they're filing any sort of domestic violence incident report to ensure that nothing has been done. But that of course will take other changes in policy and legislation.

Jodi Giglio (01:44:29):

Yeah, that's interesting. Thank you. I'd like to work with you on that and with my colleagues, because I think it's important to all of us and maybe a possible block if there is a case reported of domestic violence. Thank you, sir.

Wilfredo Lopez (01:44:41):

Thank you so much.

Speaker 2 (01:44:42):

Thanks. Assembly member Nu.

Speaker 4 (01:44:45):

Hi Wilfredo.

Wilfredo Lopez (01:44:46):

Hi Nu. How are you?

Speaker 4 (01:44:49):

Good. I just wanted to ask really quickly, just for the record, what counts as coercion?

Wilfredo Lopez (01:44:57):

Yeah, I mean coercion has a very broad definition. It could be something as serious as like forcibly getting someone to sign something under either a threat or an act of violence or force. Coercion can also be manipulation saying, I'm going to withhold something from you if you don't do this. It can also be seen as fraud when you tell someone. And there have been cases that's happening that have been wildly reported, where an abuser will get their partner to sign a piece of paper under the pretense that it is something else, hiding that last page and getting their signature on something. So coercion has a pretty wide definition, however coercive that needs to be properly codified not only in law, but throughout the different uses. It should be codified to have one streamlined definition that works in multiple cases.

Speaker 4 (01:46:02):

So what would be your suggested streamline definition for this?

Wilfredo Lopez (01:46:05):

So something member Rosenthal's Bill does give a good definition, which would put it under the general business law, using that definition and moving it towards, say for example, the Family Court Act, the New York State Social Services Law. Using that same definition in that context would help streamline it.

Speaker 4 (01:46:31):

Thank you.

Wilfredo Lopez (01:46:33):

Thank you.

Speaker 2 (01:46:34):

Assembly member Taylor.

Al (01:46:35):

Thank you again. Wilfredo. Am I on? Okay, cool. Can you hear me now? Along the lines of where you were, just that, and it may just mean that we could do some type of codifying. I know there are these devices that one can purchase a service that anytime your social security number is being used, you are automatically notified. What would it look like on the governmental side that if we're able to hold folks accountable, so that that individual who's already in a DV, their information cannot be used. The minute it's accessed, it flags pretty much like if I do my credit card and I do something crazy three times with my debit card, I'm locked out. I can't access it.

(01:47:24):

So we have the apparatus. I just don't think that we're doing it with enough urgency to make sure that people aren't falling deeper in debt in or stress in anything else related to that. So what would you recommend, and I don't know that this particular bill you referenced speaks to that, but I think that's the caveat that really shuts down. So if we going to make a dent, then why don't we stop those that would prey on an individual and say, Hey, you know what? The minute you try to do this as of this date, but also we want to make sure that that individual has access, he or she for whatever they need going forward, that they're not out of the system as well. Does that make sense? Or this?

Wilfredo Lopez (01:48:06):

Yeah it does. And thank you so much. So when we're looking at this issue, we're talking about somewhere on the average of 98% of all survivors are reporting that there's some sort of economic abuse happening. And this is throughout New York City and throughout the country in terms of using some sort of credit monitoring. I think that is a great solution.

(01:48:33):

However, we need to come up with resources in order to provide it as of and make sure that every survivor, as soon as they've filing a domestic violence incident report are getting access to these tools. And many of these tools are provided at little to no cost, but it can still be a burden for survivors who are dealing with something that is disrupting their entire life to think clearly in that moment and go through these steps. So it should really be something that it can be done and can be a lot easier. We also want to be careful not to freeze out their credit when we're doing this. Because that will also impact them negatively as they're seeking to rebuild their lives. The access to credit is so important for every individual, even more so for those that are survivors of domestic violence. So we want to make sure that we're able to flag without freezing their credit report. But I would be more than happy to work with you.

Al (01:49:37):

I'll reach out to you.

Wilfredo Lopez (01:49:39):

Yeah, absolutely. Because I think that there is a lot we can do on this very subject.

Al (01:49:44):

Okay. Thank you so much. I appreciate your time.

Wilfredo Lopez (01:49:46):

Thank you.

Speaker 2 (01:49:47):

Okay, any other questions? Thanks, Wilfredo.

Wilfredo Lopez (01:49:53):

Thank you so much.

Speaker 2 (01:49:54):

And that concludes today's hearing. I want to thank all of our witnesses and my colleagues for their attendance. We really appreciate it. And stay tuned. We will be following up on legislation and lots of the ideas that we heard here today. Thank you.

Speaker 5 (01:50:11):

Can I just make one reference to the letter that we just received?

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