

**SB3934**



**102ND GENERAL ASSEMBLY**

**State of Illinois**

**2021 and 2022**

**SB3934**

Introduced 1/21/2022, by Sen. Elgie R. Sims, Jr.

**SYNOPSIS AS INTRODUCED:**

225 ILCS 425/9.2

Amends the Collection Agency Act. Provides that a collection agency may not communicate with a debtor in connection with the collection of any debt in specified circumstances. Provides that these circumstances include debt that arises from domestic and economic abuse, elder abuse, human trafficking, and identity theft.

LRB102 22904 SPS 32057 b

**A BILL FOR**

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Collection Agency Act is amended by  
5 changing Section 9.2 as follows:

6 (225 ILCS 425/9.2)

7 (Section scheduled to be repealed on January 1, 2026)

8 Sec. 9.2. Communication in connection with debt  
9 collection.

10 (a) Without the prior consent of the debtor given directly  
11 to the collection agency or the express permission of a court  
12 of competent jurisdiction, a collection agency may not  
13 communicate with a debtor in connection with the collection of  
14 any debt in any of the following circumstances:

15 (1) At any unusual time, place, or manner that is  
16 known or should be known to be inconvenient to the debtor.  
17 In the absence of knowledge of circumstances to the  
18 contrary, a collection agency shall assume that the  
19 convenient time for communicating with a debtor is after  
20 8:00 a.m. and before 9:00 p.m. local time at the debtor's  
21 location.

22 (2) If the collection agency knows the debtor is  
23 represented by an attorney with respect to such debt and

1           has knowledge of or can readily ascertain, the attorney's  
2           name and address, unless the attorney fails to respond  
3           within a reasonable period of time to a communication from  
4           the collection agency or unless the attorney consents to  
5           direct communication with the debtor.

6           (3) At the debtor's place of employment, if the  
7           collection agency knows or has reason to know that the  
8           debtor's employer prohibits the debtor from receiving such  
9           communication.

10          (b) Except as provided in Section 9.1 of this Act, without  
11          the prior consent of the debtor given directly to the  
12          collection agency, the express permission of a court of  
13          competent jurisdiction, or as reasonably necessary to  
14          effectuate a post judgment judicial remedy, a collection  
15          agency may not communicate, in connection with the collection  
16          of any debt, with any person other than the debtor, the  
17          debtor's attorney, a consumer reporting agency if otherwise  
18          permitted by law, the creditor, the attorney of the creditor,  
19          or the attorney of the collection agency.

20          (c) If a debtor notifies a collection agency in writing  
21          that the debtor refuses to pay a debt or that the debtor wishes  
22          the collection agency to cease further communication with the  
23          debtor, the collection agency may not communicate further with  
24          the debtor with respect to such debt, except to perform any of  
25          the following tasks:

26                 (1) Advise the debtor that the collection agency's

1 further efforts are being terminated.

2 (2) Notify the debtor that the collection agency or  
3 creditor may invoke specified remedies that are ordinarily  
4 invoked by such collection agency or creditor.

5 (3) Notify the debtor that the collection agency or  
6 creditor intends to invoke a specified remedy.

7 If such notice from the debtor is made by mail,  
8 notification shall be complete upon receipt.

9 (c-5) A collection agency may not communicate with a  
10 debtor in connection with the collection of any debt in any of  
11 the following circumstances:

12 (1) The debt arises from documented domestic and  
13 economic abuse. Documented domestic and economic abuse  
14 occurs if the following apply:

15 (A) the debtor has alleged in a police report that  
16 the debtor has been the victim of domestic violence by  
17 a specific perpetrator who is one of the following:

18 (i) a current or former spouse;

19 (ii) an individual with whom the debtor has a  
20 child in common;

21 (iii) an individual with whom the debtor is or  
22 was in a dating relationship; or

23 (iv) a current or former resident of the  
24 debtor's household; and

25 (B) the debtor provides the collection agency with  
26 a signed affidavit affirming that the following is

1           true:

2                   (i) the debtor was the victim of domestic  
3                   violence by a specified perpetrator as documented  
4                   in the police report;

5                   (ii) as a result of threats of domestic  
6                   violence from the perpetrator referenced in the  
7                   police report, the debtor was compelled to incur  
8                   debt or was provided credit that the debtor would  
9                   not otherwise have incurred in the absence of the  
10                  threat of violence; and

11                  (iii) the debt that is the subject of the  
12                  person's contact with the debtor is a debt  
13                  incurred solely because of this threat of domestic  
14                  violence.

15                  The prohibition in this paragraph applies for 2 years  
16                  after the affidavit is provided to the collection agency,  
17                  except that the prohibition applies indefinitely if the  
18                  perpetrator has been convicted of a crime relating to  
19                  domestic violence arising from the conduct referenced in  
20                  the police report.

21                  (2) The debt arises from documented elder and economic  
22                  abuse. Documented elder and economic abuse occurs if the  
23                  following apply:

24                   (A) the debtor, or someone with fiduciary  
25                   responsibility for the debtor, has alleged in a police  
26                   report that the debtor has been the victim of elder

1 abuse or neglect by a specified alleged perpetrator;  
2 and

3 (B) the debtor, or someone with fiduciary  
4 responsibility for the debtor, provides the collection  
5 agency with a signed affidavit affirming that the  
6 following is true:

7 (i) the debtor was the victim of elder abuse  
8 or neglect as documented in the police report;

9 (ii) as a result of the alleged elder abuse or  
10 neglect, the debtor was compelled to incur debt or  
11 was provided credit that the debtor would not  
12 otherwise have incurred in the absence of this  
13 elder abuse or neglect, including, but not limited  
14 to, instances where the debtor's identity has been  
15 stolen; and

16 (iii) the debt that is the subject of the  
17 person's contact with the debtor is a debt  
18 incurred solely because of elder abuse or neglect.

19 The prohibition in this paragraph applies for 2 years  
20 after the affidavit is provided to the collection agency,  
21 except that the prohibition applies indefinitely if the  
22 perpetrator has been convicted of a crime under Section  
23 12-4.4a of the Criminal Code of 2012 arising from the  
24 conduct referenced in the police report.

25 (3) The debt arises from documented human trafficking  
26 and economic abuse. Documented human trafficking and

1 economic abuse occurs if the following apply:

2 (A) it has been alleged in a police report that at  
3 least one incident of human trafficking has occurred  
4 where the debtor has been listed as a victim; and

5 (B) the debtor provides the collection agency with  
6 a signed affidavit affirming that the following is  
7 true:

8 (i) the debtor was the victim of human  
9 trafficking as documented in the police report;

10 (ii) as a result of human trafficking, the  
11 debtor was compelled to incur debt or was provided  
12 credit that the debtor would not otherwise have  
13 incurred in the absence of this trafficking and  
14 abuse, including, but not limited to, instances  
15 where the debtor's identity has been stolen; and

16 (iii) the debt that is the subject of the  
17 person's contact with the debtor is debt incurred  
18 solely because of human trafficking.

19 The prohibition in this paragraph applies for 2 years  
20 after the affidavit is provided to the collection agency,  
21 except that this prohibition applies indefinitely if the  
22 perpetrator has been convicted of a crime relating to  
23 human trafficking offenses under Section 10-9 of the  
24 Criminal Code of 2012 as alleged in the police report.

25 (4) The debt arises from documented identity theft.  
26 Documented identity theft occurs if the following apply:

1           (A) the debtor produces a Federal Trade Commission  
2           identity theft report indicating that the debtor has  
3           been the victim of identity theft; and

4           (B) the debtor provides the collection agency with  
5           a signed affidavit affirming that the following is  
6           true:

7                   (i) the debtor was the victim of identity  
8                   theft as documented in the Federal Trade  
9                   Commission identity theft report;

10                   (ii) as a result of identity theft, the debt  
11                   was incurred in the debtor's name, but in no way  
12                   benefited the debtor; and

13                   (iii) the debt that is the subject of the  
14                   person's contact with the debtor is debt incurred  
15                   solely because of identity theft.

16           The prohibition in this paragraph applies  
17           indefinitely.

18           (d) For the purposes of this Section, "debtor" includes  
19           the debtor's spouse, parent (if the debtor is a minor),  
20           guardian, executor, or administrator.

21           (e) This Section applies to a collection agency or debt  
22           buyer only when engaged in the collection of consumer debt.

23           (Source: P.A. 99-227, eff. 8-3-15; 99-500, eff. 1-29-16.)