

1                   A bill to be entitled  
 2           An act relating to contacting consumer debtors;  
 3           creating s. 559.721, F.S.; prohibiting contacting  
 4           debtors in certain situations; providing requirements  
 5           for different types of debtors; specifying the length  
 6           of time of each prohibition; amending s. 559.565,  
 7           F.S.; providing for enforcement actions against out-  
 8           of-state consumer debt collectors; amending s.  
 9           559.725, F.S.; providing for administrative duties  
 10          concerning consumer complaints; amending s. 559.77,  
 11          F.S.; providing civil remedies for violations;  
 12          providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16          Section 1.   Section 559.721, Florida Statutes, is created  
 17          to read:

18          559.721 Prohibitions on contacting debtors.—In collecting  
 19          consumer debts, no person registered under s. 559.553 shall:

20          (1) Contact a debtor regarding a debt that arises from  
 21          documented elder and economic abuse.

22          (a) Documented elder and economic abuse occurs when both  
 23          of the following apply:

24          1. The debtor, or a person with fiduciary responsibility  
 25          over the debtor, has alleged in a police report that the debtor

26 has been the victim of elder abuse by a specified alleged  
27 perpetrator.

28 2. The debtor, or a person with fiduciary responsibility  
29 over the debtor, provides the person with a signed affidavit,  
30 under penalty of perjury, swearing that the following are true:

31 a. The debtor was the victim of elder abuse as documented  
32 in a police report.

33 b. As a result of alleged elder abuse, the debtor was  
34 compelled to incur debt or was provided credit that the debtor  
35 would not otherwise have incurred in the absence of the abuse or  
36 exploitation, including, but not limited to, the debtor's  
37 identity being stolen.

38 c. The debt that is the subject of the person's contact  
39 with the debtor is a debt incurred solely because of elder  
40 abuse.

41 (b) The prohibition in this subsection applies:

42 1. For 2 years after the affidavit under subparagraph  
43 (a)2. is provided to the person; or

44 2. Indefinitely if the perpetrator has been convicted of a  
45 crime relating to elder abuse arising from the conduct  
46 referenced in the police report.

47 (2) Contact a debtor regarding a debt that arises from  
48 documented human trafficking and economic abuse.

49 (a) Documented human trafficking and economic abuse occurs  
50 when the following apply:

51 1. Official documentation, as defined in s. 943.0583(1),  
52 shows at least one incident of human trafficking has occurred in  
53 which the debtor is listed as a victim or the debtor received  
54 relocation assistance under s. 960.199.

55 2. The debtor provides the person with a signed affidavit,  
56 under penalty of perjury, swearing that the following are true:

57 a. The debtor was the victim of human trafficking as shown  
58 in official documentation or there has been a determination that  
59 the debtor should receive relocation assistance under s.  
60 960.199.

61 b. As a result of human trafficking, the debtor was  
62 compelled to incur debt or was provided credit that the debtor  
63 would not otherwise have incurred in the absence of the abuse or  
64 exploitation, including instances in which the debtor's identity  
65 has been stolen.

66 c. The debt that is the subject of the person's contact  
67 with the debtor is debt incurred solely because of and during  
68 the period of human trafficking.

69 (b) The prohibition in this subsection shall apply:

70 1. For 2 years after the affidavit under subparagraph  
71 (a)2. is provided to the person; or

72 2. Indefinitely if the perpetrator has been convicted of a  
73 crime relating to human trafficking as alleged in the official  
74 documentation.

75 (3) Contact a debtor regarding debts that arise from

76 | documented identity theft.

77 |     (a) Documented identity theft occurs when the following

78 | apply:

79 |         1. The debtor provides a Federal Trade Commission identity

80 | theft report stating that the debtor is the victim of identity

81 | theft.

82 |         2. The debtor provides the person with a signed affidavit,

83 | under penalty of perjury, swearing that the following are true:

84 |             a. The debtor was the victim of identity theft as

85 | documented in the Federal Trade Commission identity theft

86 | report.

87 |             b. As a result of identity theft, the debt was incurred in

88 | the debtor's name but in no way benefited the debtor.

89 |             c. The debt that is the subject of the person's contact

90 | with the debtor is debt incurred solely because of identity

91 | theft.

92 |     (b) The prohibition in this subsection applies

93 | indefinitely.

94 |     (4) (a) Contact a debtor upon receiving notice that the

95 | debtor is protected by an injunction for protection against

96 | exploitation of a vulnerable adult under s. 825.1035.

97 |     (b) The prohibition in this subsection applies

98 | indefinitely.

99 |     (5) (a) Contact a debtor regarding debts that arise when

100 | the debtor was in foster care.

101 (b) This prohibition applies after the debtor provides the  
 102 person with a signed affidavit, under penalty of perjury,  
 103 swearing that the following are true:

104 1. The debtor was in foster care, as defined in s. 39.01.

105 2. The debt that is the subject of the person's contact  
 106 with the debtor was incurred during the time when the debtor was  
 107 in foster care.

108 (6) Nothing in this section relieves a debtor from a debt  
 109 he or she has incurred as a result of a crime.

110 Section 2. Subsection (2) of section 559.565, Florida  
 111 Statutes, is amended to read:

112 559.565 Enforcement action against out-of-state consumer  
 113 debt collector.—The remedies of this section are cumulative to  
 114 other sanctions and enforcement provisions of this part for any  
 115 violation by an out-of-state consumer debt collector, as defined  
 116 in s. 559.55(11).

117 (2) A person, whether or not exempt from registration  
 118 under this part, who violates s. 559.72 or s. 559.721 is subject  
 119 to sanctions the same as any other consumer debt collector,  
 120 including imposition of an administrative fine. The registration  
 121 of a duly registered out-of-state consumer debt collector is  
 122 subject to revocation or suspension in the same manner as the  
 123 registration of any other registrant under this part.

124 Section 3. Subsection (2) of section 559.725, Florida  
 125 Statutes, is amended to read:

126           559.725 Consumer complaints; administrative duties.—  
 127           (2) The office shall inform and furnish relevant  
 128 information to the appropriate regulatory body of the state or  
 129 the Federal Government, or The Florida Bar in the case of  
 130 attorneys, if a person has been named in a consumer complaint  
 131 pursuant to subsection (3) alleging violations of s. 559.72 or  
 132 s. 559.721. The Attorney General may take action against any  
 133 person in violation of this part.

134           Section 4. Subsections (1) and (2) of section 559.77,  
 135 Florida Statutes, are amended to read:

136           559.77 Civil remedies.—

137           (1) A debtor may bring a civil action against a person  
 138 violating the provisions of s. 559.72 or s. 559.721 in the  
 139 county in which the alleged violator resides or has his or her  
 140 principal place of business or in the county where the alleged  
 141 violation occurred.

142           (2) Any person who fails to comply with any provision of  
 143 s. 559.72 or s. 559.721 is liable for actual damages and for  
 144 additional statutory damages as the court may allow, but not  
 145 exceeding \$1,000, together with court costs and reasonable  
 146 attorney ~~attorney's~~ fees incurred by the plaintiff. In  
 147 determining the defendant's liability for any additional  
 148 statutory damages, the court shall consider the nature of the  
 149 defendant's noncompliance with s. 559.72 or s. 559.721, the  
 150 frequency and persistence of the noncompliance, and the extent

151 to which the noncompliance was intentional. In a class action  
152 lawsuit brought under this section, the court may award  
153 additional statutory damages of up to \$1,000 for each named  
154 plaintiff and an aggregate award of additional statutory damages  
155 up to the lesser of \$500,000 or 1 percent of the defendant's net  
156 worth for all remaining class members; however, the aggregate  
157 award may not provide an individual class member with additional  
158 statutory damages in excess of \$1,000. The court may award  
159 punitive damages and may provide such equitable relief as it  
160 deems necessary or proper, including enjoining the defendant  
161 from further violations of this part. If the court finds that  
162 the suit fails to raise a justiciable issue of law or fact, the  
163 plaintiff is liable for court costs and reasonable attorney  
164 ~~attorney's~~ fees incurred by the defendant.

165 Section 5. This act shall take effect July 1, 2023.