

## **Ineffective Legal Relief for Coerced Debt: The Failure of Divorce and Debtor-Creditor Law to Address Debt Created by Domestic Violence**

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### **Abstract:**

*Coerced debt occurs when the abusive partner in a relationship characterized by domestic violence (DV) uses fraud, coercion, or manipulation to incur debt in the DV survivor's name. For example, abusers may fraudulently open credit cards in their partners' names or coerce their partners into refinancing their homes. Prior research has shown that coerced debt may be a common problem that negatively impacts DV survivors' lives by damaging credit scores and imposing barriers to leaving abusive relationships. This manuscript presents data from the first in-depth study of coerced debt, *Debt as a Control Tactic in Abusive Marriages*, funded by the National Science Foundation.<sup>1</sup> Our research team interviewed 116 recently-divorced women with coerced debt. A key research aim was to evaluate the effectiveness of legal relief for coerced debt. We analyzed participants' experiences with divorce and studied three options under debtor-creditor law: unauthorized use in the Truth in Lending Act, the Texas statute of limitations, and bankruptcy. We found these options for legal relief for coerced debt to be highly ineffective. The failure of existing legal remedies underscores the importance of on-going advocacy for legal reform.*

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## I. Introduction

Coerced debt occurs when the abusive partner in a relationship characterized by intimate-partner violence (IPV) uses fraud, coercion, or manipulation to incur debt in the IPV survivor's name.<sup>2</sup> For example, abusive partners may fraudulently open credit cards in their partners' names or coerce their partners into refinancing their homes. In this manuscript, we present data from the first in-depth study of coerced debt, *Debt as a Control Tactic in Abusive Marriages*, funded by the National Science Foundation.<sup>3</sup> Our research team interviewed 187 women who divorced abusive men, 116 of whom reported coerced debt. One key research aim was to evaluate the effectiveness of legal remedies for and defenses to coerced debt. We analyzed participants' experiences with divorce as the first remedy for coerced debt. We also evaluated three options for legal relief under debtor-creditor law: unauthorized use law under the Truth in Lending Act (TILA), the Texas statute of limitations, and bankruptcy. Overall, we found the available legal relief for coerced debt to be highly ineffective.

Coerced debt appears to be a major problem with negative impacts. In prior research, we surveyed callers to the National Domestic Violence Hotline (NDVH) about coerced debt.<sup>4</sup> Slightly more than half of callers who took our survey, 51.5%, reported coerced debt.<sup>5</sup> Callers who reported coerced debt were six times more likely to report credit-score damage than other callers and 2.5 times more likely to report staying longer than wanted in a relationship with someone who was controlling due to financial concerns.<sup>6</sup>

For the current study, we used divorce court records in Travis County, Texas to recruit a sample of 116 women with coerced debt and a comparison group of 71 women without coerced debt. We assessed for coerced debt by reviewing each participant's credit report, asking whether each account was opened and/or used by the participant's ex-husband via fraud, coercion, or manipulation, and by asking about accounts not on the credit report. Participants held a total of 2,833 relevant credit accounts, 506 (18%) of which we determined to be coerced debts.

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<sup>2</sup> See Angela Littwin, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 CALIF. L. REV. 951, 954 (2012) [hereinafter *Coerced Debt*] (exploring coerced debt within the consumer credit system).

<sup>3</sup> Abstract of *Debt as a Control Tactic in Abusive Marriages*, NAT'L SCI. FOUND., [https://www.nsf.gov/awardsearch/showAward?AWD\\_ID=1920557&HistoricalAwards=false](https://www.nsf.gov/awardsearch/showAward?AWD_ID=1920557&HistoricalAwards=false) (last visited January 28, 2025).

<sup>4</sup> Adrienne E. Adams, Angela K. Littwin & McKenzie Javorka, *The Frequency, Nature, and Effects of Coerced Debt Among a National Sample of Women Seeking Help for Intimate Partner Violence*, 26 VIOLENCE AGAINST WOMEN 1324, 1324 (2020) [hereinafter *The Frequency, Nature, and Effects of Coerced Debt*].

<sup>5</sup> *Id.* at 1331 tbl.2.

<sup>6</sup> Both findings were statistically significant at  $p \leq .05$ . *Id.* at 1333.

Participants owed a combined total of \$12.5 million in coerced debt with a per-participant median of \$22,000.

We sampled divorced women<sup>7</sup> for the first in-depth study of coerced debt because they have maximum access to legal relief, given that divorce can provide a remedy for coerced debt. Thus, we studied directly the effectiveness of divorce as a legal remedy for coerced debt. Working from a divorce sample<sup>8</sup> meant that we studied legal relief under debtor-creditor law indirectly, because so few consumers use debtor-creditor law.<sup>9</sup> To determine eligibility for relief under debtor-creditor law, we analyzed characteristics of participant coerced debts and surveyed participants about the options.

We developed our evaluation criteria from the help-seeking literature, which analyzes how women seek and attain help for IPV and evaluates the extent

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<sup>7</sup> We used a sample of women because coercive control, the type of domestic violence that enables coerced debt, tends – in heterosexual relationships – to be perpetrated by men against women. *See infra* notes 45-46 and accompanying text. Future studies will include a greater diversity of gender identities.

<sup>8</sup> Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Portraits of Bankruptcy Filers*, 56 GA. L. REV. 573, 596–98 (2022) (discussing the methodology of the Consumer Bankruptcy Project). For this study, the goal was to obtain a sample of participants who had experienced coercive control in a recent marriage, so we needed a divorce sample rather than one drawn from debtor-creditor law.

<sup>9</sup> For example, 434,064 households filed for consumer bankruptcy in 2023, which is only one of every 303 U.S. households. Additionally, only 0.17% of U.S. adults filed for non-business bankruptcy that year. *See Bankruptcy Filings Rise 16.8 Percent*, U.S. CTS. (Jan. 26, 2024), <https://www.uscourts.gov/news/2024/01/26/bankruptcy-filings-rise-168-percent> (“Non-business bankruptcy filings rose . . . to 434,064 [in 2023].”); U.S. CENSUS BUREAU, HOUSEHOLDS AND FAMILIES tbl.S1101 (2023), <https://data.census.gov/table/ACSST1Y2023.S1101?t=Housing&g=010XX00US&y=2023> (estimating 131,332,360 total U.S. households in 2023); U.S. CENSUS BUREAU, ACS DEMOGRAPHIC AND HOUSING ESTIMATES tbl.DP05 (2023), <https://data.census.gov/table/ACSDP5Y2022.DP05> (estimating the total U.S. eighteen years and over population at 262,266,460 in 2023); FED. TRADE COMM’N, CONSUMER SENTINEL NETWORK DATA BOOK 2023 14 (2024) (reporting credit card identity theft in 381,122 new accounts and 44,855 existing accounts in 2023); *see also* Rebecca L. Sandefur, *Money Isn’t Everything: Understanding Moderate Income Households’ Use of Lawyers’ Services*, in MIDDLE INCOME ACCESS TO JUSTICE 226 (Michael Trebilcock et al. eds., 2012) (citing a survey which found that only 11 percent of participants with civil justice problems involving personal finances used courts or tribunals); REBECCA L. SANDEFUR, AM. BAR FOUND., ACCESSING JUSTICE IN THE CONTEMPORARY U.S.A.: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY 11 (2014) (finding that participants “were least likely to turn to outside third parties for situations involving . . . debts (12% of the time)”).

to which the help provided meets their needs.<sup>10</sup> We synthesized three concepts from this literature. For each legal option, we examined the extent to which it was:

1. Available. To what extent is the legal doctrine available to address coerced debt? In other words, does the law apply to the problem?<sup>11</sup>
2. Accessible. To what extent can victims access the law without being stymied by costs and other barriers?<sup>12</sup>
3. Acceptable. To what extent does applying the law comport with victims' values and beliefs?<sup>13</sup>

The literature on disputes as constructs may appear to challenge our application of the help-seeking literature to a sample of participants who have not sought legal relief for coerced debt, because that literature posits that people must undergo a psychological process of identifying their problems as legal before taking legal action.<sup>14</sup> Our help-seeking framework holds, however, because the need for legal options addressing coerced debt is well-documented.<sup>15</sup> In addition, the help-seeking framework has been implemented by numerous studies which have found availability, accessibility, and acceptability to be major impediments to IPV survivors obtaining the help they need.<sup>16</sup>

To be effective, a legal doctrine had to meet all three criteria. If a remedy is not available, it obviously cannot help a participant with coerced debt. But even available remedies are not useful if participants face barriers in accessing them. And remedies meeting the first two criteria are not effective if participants are unwilling to use them because they violate participant values or beliefs.

Divorce law fared poorly on these metrics.<sup>17</sup> Divorce can provide relief for coerced debt in two ways: (1) by shifting responsibility for the debt to the abusive spouse who incurred it and (2) by providing the victim of coerced debt with assets to pay it. But the first option is suboptimal, because family courts do not have jurisdiction over divorcing couples' creditors.<sup>18</sup> Thus, even if the divorce decree shifts liability, that does not change the victim's liability under the contract with

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<sup>10</sup> See, e.g., Angie C. Kennedy et al., *A Model of Sexually and Physically Victimized Women's Process of Attaining Effective Formal Help over Time: The Role of Social Location, Context, and Intervention*, 50 AM. J. CMTY. PSYCH. 217, 224 (2012).

<sup>11</sup> See *infra* Sections III.A.1. & V.A.

<sup>12</sup> See *infra* Sections III.A.2. & V.B.

<sup>13</sup> See *infra* Sections III.A.3. & V.C.

<sup>14</sup> See *infra* Section III.B.

<sup>15</sup> See *id.*

<sup>16</sup> See *infra* Section III.A.

<sup>17</sup> See *infra* Section IV.

<sup>18</sup> See TEX. GOV'T CODE § 24.601(b) (1985) (limiting the jurisdiction of family district courts in Texas to specific cases involving family law matters).

the creditor.<sup>19</sup> We nevertheless examined whether courts shifted liability because that would allow the victim to sue the abusive partner for indemnification.<sup>20</sup> But of the ninety-eight participants who had coerced debts outstanding at the time of the divorce, 82% remained liable for all of them.<sup>21</sup> Even more telling is that participants did not raise coerced debt as an issue in their divorces for more than three-quarters of the 238 coerced debts for which we had data on this point.<sup>22</sup> Participant decisions not to raise coerced debt as an issue were driven by accessibility and acceptability concerns such as attorney advice, risk of further abuse, and pressure from their ex-husbands. The most telling point in this analysis was that participants were significantly more likely to be satisfied with their decision when they did not raise coerced debt as an issue than when they did.<sup>23</sup>

A potentially more effective divorce remedy is receiving assets to pay coerced debts. But of the ninety-eight participants with coerced debt at divorce finalization, only one received assets specifically to pay her coerced debts. This outcome suggests that divorce law is not available as a remedy for coerced debt.

Participants can use other assets received in the divorce to pay coerced debts, but divorces are not income-generating. Assets a participant “receives” in the divorce are her total assets, and if she does not receive assets specifically to pay for the coerced debts, a participant would be using her personal assets to pay for debts her ex-husband incurred. We did, however, compare the amount of assets participants received to the amount of coerced debt they owed at divorce finalization.<sup>24</sup>

Thus, we estimated the total liquid assets and total assets participants received in the divorce and subtracted each asset total from the amount of coerced debt at the time of divorce. We found that participants had a median of \$1,376 in

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<sup>19</sup> See, e.g., *Can a debt collector contact me about a debt after a divorce?*, CONSUMER FIN. PROT. BUREAU (Apr. 14, 2023), <https://www.consumerfinance.gov/ask-cfpb/can-a-debt-collector-contact-me-about-a-debt-after-a-divorce-en-1413/> (“Divorce changes the relationship between spouses, but it doesn’t automatically change their relationship with creditors.”).

<sup>20</sup> See *Rodgers v. Perez*, No. 03-16-00313-CV, 2017 WL 4348170, at \*2 (Tex. App. Sept. 27, 2017) (citing TEX. FAM. CODE ANN. § 7.001 (West 2020) (inclusion of indemnification clause in divorce decree falls within “wide latitude” of district court under Section 7.001 of the Texas Family Code to make a “just and right” division of community property with “due regard” for the rights of the parties); *Stubbs v. Stubbs*, No. 10-13-00393-CV, 2014 WL 4055988, at \*2 (Tex. App. July 14, 2014) (affirming judgment, ordering spouse to pay other spouse’s attorney’s fees incurred in defense of suit by third-party creditor, based on indemnification clause in divorce decree).

<sup>21</sup> See *infra* Figure 2.

<sup>22</sup> See *infra* Section IV.A.

<sup>23</sup> See *infra* Table 2.

<sup>24</sup> See *infra* Section IV.B.

outstanding coerced debt remaining after we subtracted liquid assets.<sup>25</sup> This may not sound like very much, but the liquid assets included types that may already be earmarked for other purposes, such as child support. Participants fared better when we subtracted coerced debt from total assets received in the divorce. They had a median of approximately \$7,000 of assets more than they had coerced debt.<sup>26</sup> But to pay their coerced debts with these assets, participants would have to sell or borrow against their homes, vehicles, and household items.

We also found that divorce was fairly inaccessible in that concerns about attorney affordability were significantly correlated with whether or not a participant was represented by an attorney in the divorce. In addition, participants who did not pay off their coerced debt by the time of the divorce were significantly more likely to be unrepresented in their divorces than participants who did pay it off.

The results of our evaluation of relief for coerced debt under debtor-creditor law were similarly bleak. To determine whether a legal option was available, we analyzed the characteristics of each relevant coerced debt.<sup>27</sup> For example, the statute of limitations in Texas is four years from the most recent date of account opening, purchase, or payment,<sup>28</sup> so we counted the statute of limitations as being available for an outstanding coerced debt if it was not opened, paid, or purchased on within four years of a participant's divorce finalization. For accessibility, we surveyed participants about their awareness of these legal options, because lacking knowledge of a legal right is a barrier to accessing it.<sup>29</sup> And for bankruptcy, we asked about the affordability of median attorney fees, because attorney costs are a well-documented barrier to accessing bankruptcy law.<sup>30</sup> To measure acceptability, we asked participants how willing they would be to use each legal option.<sup>31</sup>

We considered a legal right effective if it met all three criteria, i.e., it was available, accessible, and acceptable for a given coerced debt. For the 289 coerced debts outstanding at the time of divorce, unauthorized use under TILA was the only remedy that was effective for more than one tenth of these accounts, with an effectiveness rate of 11%.<sup>32</sup> But even that may be an overcount. When we modified the questions about unauthorized use's acceptability to include the fact that victims

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<sup>25</sup> *Infra* Table 3.

<sup>26</sup> *Id.*

<sup>27</sup> *See infra* Section V.A.

<sup>28</sup> TEX. CIV. PRAC. & REM. CODE § 16.004(a)(3) (1999).

<sup>29</sup> *See infra* Section V.B.

<sup>30</sup> *See infra* Section III.A.2.

<sup>31</sup> *See infra* Section III.A.3.

<sup>32</sup> *See infra* Figure 4.

often must obtain police reports to access this remedy,<sup>33</sup> the overall effectiveness of unauthorized use law sunk by more than half, to 5%.<sup>34</sup> The least effective remedy was the statute of limitations, which was available, accessible, and acceptable for only 0.3% of outstanding coerced debts.<sup>35</sup>

This manuscript proceeds in five additional sections. Section II. provides context for how coerced debt is generated, an overview of the study methodology, and the amount of coerced debt we found. Section III. demonstrates that the literature on help seeking supports our measures of legal relief and that the literature on disputes as constructs does not undermine them. Sections IV. and V. analyze the effectiveness of legal relief for coerced debt under divorce and debtor-creditor law, respectively. Section VI. concludes.

## II. Understanding and Measuring Coerced Debt

### A. Understanding Coerced Debt

More than a decade ago, one of us coined the term “coerced debt” because it is debt that occurs in the context of coercive control.<sup>36</sup> Research on intimate partner violence (IPV) -- also called domestic violence (DV) -- has identified two major types of abuse: (1) situational violence, in which both partners use less severe violence as a conflict-resolution strategy,<sup>37</sup> and (2) coercive control, in which the abusive partner seeks to dominate the survivor.<sup>38</sup> In a relationship with coercive control, the abusive partner’s goal is control over at least one – and sometimes many – aspects of the survivor’s life, often to the point of eliminating her free will.<sup>39</sup> The abuser obtains control via demands and threats of consequences.<sup>40</sup> The demands can center on any area of life, such as child rearing, relationships with extended family, work, or finances.<sup>41</sup> For example, an abusive partner may demand that his partner clean the house a certain way, not seek medical attention, or cede control of

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<sup>33</sup> Angela Littwin, *Escaping Battered Credit: A Proposal for Repairing Credit Reports Damaged by Domestic Violence*, 161 U. PA. L. REV. 363, 392 (2013) [hereinafter *Escaping Battered Credit*].

<sup>34</sup> See *infra* Figure 4.

<sup>35</sup> See *id.*

<sup>36</sup> *Coerced Debt*, *supra* note 2, at 954.

<sup>37</sup> Michael P. Johnson, *Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence*, 12 VIOLENCE AGAINST WOMEN 1003, 1003–06 (2006) [hereinafter *Conflict and Control*]; Michael P. Johnson, *Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence Against Women*, 57 J. MARRIAGE & FAM. 283, 284–87 (1995).

<sup>38</sup> EVAN STARK, COERCIVE CONTROL: HOW MEN ENTRAP WOMEN IN PERSONAL LIFE 213–14, 348 (2nd ed. 2023); *Conflict and Control*, *supra* note 37, at 1006.

<sup>39</sup> *Id.* at 1010.

<sup>40</sup> Mary Ann Dutton & Lisa A. Goodman, *Coercion in Intimate Partner Violence: Toward a New Conceptualization*, 52 SEX ROLES 743, 746–47 (2005).

<sup>41</sup> *Id.*

the family's finances. These demands are enforced with the threat of consequences,<sup>42</sup> which can be psychological (ranging from name calling to badgering to revealing personal information), economic (such as stealing, destroying property, or work sabotage), or physical violence.<sup>43</sup>

An abusive partner uses only as much coercion as is necessary to achieve compliance. For example, one study participant's ex-husband used primarily emotional threats, such as throwing tantrums, to coerce her into opening vehicle and home loans for him. But once the participant was drowning in debt, the emotional threats became less effective. At that point, her ex-husband began making implied physical threats.<sup>44</sup>

While domestic violence has some gender-neutral aspects,<sup>45</sup> in the heterosexual context, coercive control tends to be gendered, that is, perpetrated by men against women,<sup>46</sup> which influences our choice of gendered pronouns when unavoidable and is why we interviewed women who had divorced men for this first in-depth study of coerced debt.

Coercive control is the type of domestic violence that enables coerced debt.<sup>47</sup> Having control over other domains of his partner's life makes it easier for an abusive partner to generate coerced debt. For example, a partner who is isolated from family and friends has less access to material and social resources that could help her resist other demands. This is especially true when the abusive partner has control over the family's finances. For example, we interviewed a participant whose ex-husband had moved all the family's money into bank accounts that were nominally joint but to which he had sole access. He could then coerce her into borrowing money by threatening to cut off her access to money altogether.<sup>48</sup>

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<sup>42</sup> *Id.*

<sup>43</sup> STARK, *supra* note 38, at 330–64.

<sup>44</sup> Interview with Nicole, Study Participant. All participant names have been changed to protect confidentiality, which is particularly important in DV research due to the risk of abuser retaliation. See, e.g., *When Men Murder Women*, VIOLENCE POL'Y CTR. 3 (Sept. 2022), <https://vpc.org/studies/wmmw2022.pdf>. Using best practices, we assigned participants identification numbers during the study and did not store their real names. We give them pseudonyms in publications to humanize their stories.

<sup>45</sup> See, e.g., Murray A. Straus & Richard J. Gelles, *Societal Change and Change in Family Violence from 1975 to 1985 as Revealed by Two National Surveys*, 48 J. MARRIAGE & FAM. 465, 470 (1986).

<sup>46</sup> STARK, *supra* note 38, at 132–35 (defining situational violence and coercive control); *Conflict and Control*, *supra* note 37, at 1003, 1006.

<sup>47</sup> *Coerced Debt*, *supra* note 2, at 976.

<sup>48</sup> Telephone Interview with Morgan, Study Participant.

## B. Methodological Overview

The data presented in this manuscript are from the study, *Debt as a Control Tactic in Abusive Marriages*.<sup>49</sup> The study used a sequential mixed-method longitudinal design to collect data from a sample of women recently divorced from an abusive partner. We used Travis County public divorce records to recruit a sample of 187 women in Texas. We sent letters to potential participants for whom contact information was available in their divorce records, followed by emails, texts, and phone calls. For potential participants for whom we could not obtain contact information, we contacted their attorneys.<sup>50</sup> To qualify for the study, participants had to be at least 18 years old, English-speaking,<sup>51</sup> and recently divorced from an ex-husband who exercised coercive control.

Due to the coronavirus pandemic, data collection was entirely virtual. Participants completed an online survey covering demographic information and experiences of abuse as well as two telephone interviews. They received a total of \$100 in electronic gift certificates to a wide variety of stores for their time and expertise.

The primary objective of the first interview was to assess for coerced debt. Trained interviewers systematically worked through the relevant accounts on each participant's credit report, asking about her ex-husband's role in creating debts. To aid participants in recalling events on their credit reports, they each completed a Life History Calendar, a tool demonstrated to improve autobiographical memory.<sup>52</sup> We assessed for fraudulent, coercive, and manipulated transactions. Fraud applied to accounts that a participant's ex-husband opened or used without her knowledge. We defined coercion with a two-part question based on the operation of coercive control, in which abusers make demands of their partners and enforce those demands with threats of consequences.<sup>53</sup> In the study, the demand was one to open or use a participant's account. The consequence could be physical, economic, psychological, or anything else the participant feared her ex-husband would do if she did not comply with his demand. For each account in which the ex-husband

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<sup>49</sup> Abstract of *Debt as a Control Tactic in Abusive Marriages*, *supra* note 3.

<sup>50</sup> In Travis County, Texas, unrepresented parties list their addresses in the signature area of the divorce decree. Represented parties have the option of listing their attorneys' contact information instead. Interview with Family Division Director, Travis County District Clerk (Nov. 12, 2024).

<sup>51</sup> We originally planned to include the option for interviews in Spanish for Texas participants, but the complex redesign of the study for the coronavirus pandemic left us without the capacity to implement this option.

<sup>52</sup> For a detailed explanation of the Life History Calendar as well as research demonstrating its benefits, *see infra* Appendix A.

<sup>53</sup> *See generally* Dutton & Goodman, *supra* note 40 (exploring coercive control in intimate partner relationships).

issued a demand but the participant did not fear a consequence, we asked whether a participant felt manipulated, tricked, or conned into opening or using the account.<sup>54</sup> After covering all relevant accounts on the credit report, we repeated the process for any accounts not on the credit report that were open or had a current balance.

For coerced debts, we asked three types of follow-up questions relevant to this manuscript. First, revolving accounts, such as credit cards, with coerced debt needed an additional set of follow-up questions because their balances can include transactions incurred both by the ex-husband and voluntarily by the participant. The revolving-account follow-up questions sought to apportion the total balance for each account among fraudulent, coercive, manipulated, and voluntary transactions. Second, we asked questions to determine eligibility for the statute of limitations when that information was not available on the participant's credit report. Third, for coerced student loans, we asked questions to determine whether participants were potentially eligible for a bankruptcy discharge as an undue hardship.<sup>55</sup>

The remainder of the first interview consisted of follow-up questions about abuse and legal relief under debtor-creditor law. Because so few consumers use debtor-creditor law,<sup>56</sup> we asked about participants' opinions of these legal options indirectly,<sup>57</sup> although we assessed for the availability of legal relief under debtor-creditor law primarily with information from their credit reports. We asked about the extent to which participants were aware of and would be willing to pursue relief via the unauthorized use of credit<sup>58</sup> and debit cards,<sup>59</sup> the four-year Texas statute of limitations for debts,<sup>60</sup> and bankruptcy law.<sup>61</sup> When relevant, we included variations. For example, creditors often require police reports for unauthorized use

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<sup>54</sup> Because we asked about manipulation only when participants said "yes" to the demand question and "no" to the consequences question, we ended up with a very low rate of manipulated transactions. Adrienne E. Adams et al., *Describing Coerced Debt Created in Abusive Marriages*, X J. INTERPERSONAL VIOLENCE (forthcoming) (manuscript at X tbl.1) [hereinafter *Describing Coerced Debt*] (finding that 25.9 percent of the participants' coerced debts had manipulative transactions compared to 60.3 percent with fraudulent transactions and 81.0 percent with coercive transactions).

<sup>55</sup> 11 U.S.C. § 523(a)(8).

<sup>56</sup> See sources cited *supra* notes 8-9 and accompanying text.

<sup>57</sup> See *id.*

<sup>58</sup> See Truth in Lending Act, 15 U.S.C. § 1643(a) [hereinafter TILA] (limiting a cardholder's liability for unauthorized credit card if certain conditions are met).

<sup>59</sup> See Electronic Fund Transfer Act, 15 U.S.C. § 1693g(a) [hereinafter EFTA] (limiting consumer liability for unauthorized electronic fund transfers if certain conditions are met).

<sup>60</sup> TEX. CIV. PRAC. & REM. CODE § 16.004(a)(3) (1999).

<sup>61</sup> See generally 11 U.S.C. §§ 727, 1328.

relief,<sup>62</sup> so we asked first about participants' willingness to pursue unauthorized use without mentioning police reports and second about their willingness to pursue it if a creditor required one.

The second telephone interview focused on each participant's divorce. For participants with coerced debt that was outstanding at the time of divorce, we asked about how they approached the coerced debt during the divorce. Did they raise the issue of coerced debt in their divorce? If not, what factors contributed to that decision? How satisfied were they with the decision to raise or not raise coerced debt as an issue? For all participants, we obtained details on the property distribution contained in the divorce decree, including estimates of the value of the property the participant and her ex-husband received. For real estate and vehicles participants received, we asked about current ownership and future plans in order to determine how bankruptcy law would treat any debts covering these assets.

For further details about the study methodology, including the text of the questions described in this overview, see the appendices at the end of this manuscript.

### C. Amount of Coerced Debt in the Study

The total amount of coerced debt in the study was a little over \$12.5 million. The 113 participants with coerced debt for whom we had complete data on this point had a median of \$22,000 of coerced debt. See Table 1. The 75th percentile of coerced debt was nearly \$90,000, and even the 25th percentile was \$5,000.

However, mortgage debt and, to some extent, home equity lines of credit (HELOCs) can be considered good debt. Even if a mortgage is coerced, it at least enabled a participant to purchase real estate, usually a home.<sup>63</sup> HELOCs can be beneficial if they substitute for higher-interest debt.<sup>64</sup> On the other hand, if the ex-husband received the marital home in the divorce or the home was one that the participant did not want to purchase, then a coerced mortgage is less beneficial. Similarly, if the ex-husband appropriated the value of the HELOC, as occurred in

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<sup>62</sup> See FED. TRADE COMM'N, IDENTITY THEFT: A RECOVERY PLAN 7 (2020), [https://www.bulkorder.ftc.gov/system/files/publications/501a\\_idt\\_a\\_recovery\\_plan\\_508.pdf](https://www.bulkorder.ftc.gov/system/files/publications/501a_idt_a_recovery_plan_508.pdf) (“However, you’ll want to report to local police if . . . a specific company asks for a police report as part of its dispute resolution process.”).

<sup>63</sup> See CHRYSTIN ONDERSMA, DIGNITY NOT DEBT: AN ABOLITIONIST APPROACH TO ECONOMIC JUSTICE 19, 29 (2024) (defining “opportunity debt” as debt that households incur to expand resources or opportunities).

<sup>64</sup> See Diana Farrell, Fiona Greig & Chen Zhao, *Tapping Home Equity: Income and Spending Trends Around Cash-Out Refinances and HELOCs*, JPMORGAN CHASE INSTITUTE, Dec. 2020, at 9 (“[I]n many cases the interest rate on a HELOC is lower than interest on other potential sources of credit, such as a personal loan or credit card.”).

many cases,<sup>65</sup> the HELOC is not beneficial. Nevertheless, because of the potential for mortgages and HELOCs to be good debt, we provide the total coerced debt without these two types of accounts. The median is still a little over \$15,000, suggesting that at least half of participants were carrying a substantial amount of non-beneficial coerced debt. See Table 1.

Participants had paid off much of their coerced debt by the time of divorce finalization. Only ninety-eight participants still owed coerced debt at the time of the divorce, and the median amount was \$6,117.50. See Table 1. Participants having much less coerced debt at the time of divorce than total coerced debt is not surprising. Divorce requires disentangling the spouses' financial affairs, and paying down joint debts before a divorce can simplify this process.<sup>66</sup>

Removing mortgages and HELOCs from coerced debt outstanding at the time of divorce further reduces the amount of coerced debt. The median is a little over \$3,000, but the 75th percentile is at nearly \$20,000, suggesting that at least one-fourth of participants were still carrying large non-beneficial debt. Table 1 provides the medians for all four analyses.

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**Table 1. Median Amounts of Coerced Debt per Participant**

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Total Coerced Debt	\$22,000
Coerced Debt Except Mortgages & HELOCs	\$15,065
Total Coerced Debt at Divorce Finalization	\$6,178
Coerced Debt at Divorce Finalization Except Mortgages & HELOCs	\$3,198

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For total coerced debt, n = 113 participants, missing = 3. For coerced debt except mortgages and HELOCs, n = 112 participants, missing = 4. For both medians at time of divorce finalization, n = 98 participants, missing = 0.

### III. Theories of Legal Relief

#### A. Help Seeking

We evaluated legal options for coerced debt using concepts from the help-seeking literature, which began as a way of studying the effectiveness of health-

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<sup>65</sup> Angela Littwin, Adrienne Adams & Angie Kennedy, *Bartenwerfer v. Buckley and Coerced Debt*, 99 AM. BANKR. L.J. 3, 48–49 (2025).

<sup>66</sup> See Margaret M. Mahoney, *The Equitable Distribution of Marital Debts*, 79 UMKC L. REV. 445, 449–51 (2010) (detailing varying and conflicting equitable doctrines that courts apply when allocating responsibility for outstanding debts in divorce proceedings).

care systems from a patient perspective<sup>67</sup> and now contains robust literature on how well services meet the needs of IPV survivors.<sup>68</sup> From this research, we synthesized three metrics for analyzing legal relief for coerced debt: the extent to which each legal option was (1) available, (2) accessible, and (3) acceptable.

### 1. Availability

Availability addresses the extent to which a legal right or service exists to address the help seeker's issue. Availability represents a minimum threshold.<sup>69</sup> Lack of availability has been documented among general DV services<sup>70</sup> and health and mental health services.<sup>71</sup>

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<sup>67</sup> Roy Penchansky & J. William Thomas, *The Concept of Access: Definition and Relationship to Consumer Satisfaction*, 19 MEDICAL CARE 127, 127–30 (1981) (introducing the concepts of availability, accessibility, accommodation, affordability and acceptability and providing “strong support for the view that differentiation does exist among the five areas and that the measures do relate to the phenomena with which they are identified.”). Although the earliest research included “accommodation,” defined as the extent to which the services onboarding processes, such as hours of operations and appointment scheduling work for clients, later research dropped that factor, presumably because it fits under accessibility. See, e.g., TK Logan et al., *Protective Orders: Questions and Conundrums* 7 TRAUMA, VIOLENCE, & ABUSE 175, 181–85 (2006) [hereinafter *Questions and Conundrums*] (discussing availability, affordability, accessibility, and acceptability). For simplification, we subsumed affordability under accessibility, because being unable to afford the help necessary to use a service or law effectively is a barrier to access.

<sup>68</sup> See, e.g., Angie C. Kennedy et al., *supra* note 10, at 218–19 (explaining that help attainment at each step of the process depends on contextual factors like social location, prior cumulative adversity, and the availability of resources); Angie C. Kennedy et al., *Can this Provider Be Trusted? A Review of the Role of Trustworthiness in the Provision of Community-Based Services for Intimate Partner Violence Survivors*, 25 TRAUMA, VIOLENCE, & ABUSE 982, 984 (2024) [hereinafter *Can this Provider?*] (discussing the impact of provider trustworthiness on the effectiveness of IPV services according to three trustworthiness dimensions of provider benevolence/availability, fairness/accessibility, and competence/acceptability).

<sup>69</sup> *Id.*

<sup>70</sup> See, e.g., NAT'L NETWORK TO END DOMESTIC VIOLENCE (NNEDV), 16TH ANNUAL DOMESTIC VIOLENCE COUNT REPORTS (2021) (finding that, over a one-day periods in 2021, these organizations served 70,000 survivors but turned down 9,000 survivors due to lack of available services); Katie M. Edwards, *Intimate Partner Violence and the Rural-Urban-Suburban Divide: Myth or Reality? A Critical Review of the Literature*, 16 TRAUMA, VIOLENCE, & ABUSE 359 (2015) (finding that the lack of availability of IPV services in rural locales may worsen psychological and physical health outcomes of IPV victims); Rebecca Stone et al., “*He Would Take My Shoes and All the Baby’s Warm Winter Gear So We Couldn’t Leave*”: Barriers to Safety and Recovery Experienced By a Sample of Vermont Women With Partner Violence and Opioid Use Disorder Experiences, 27 J. RURAL HEALTH 35 (2021) (finding that geographic isolation and the lack of integration of substance use treatment with IPV services made IPV services less available to a sample of rural women who experienced both IPV and opioid use).

<sup>71</sup> See, e.g., Kimberly Aguiard et al., “*Helping Someone Else Has Helped Me Too*”: Resilience In Rural Women With Disabilities With Experiences of Interpersonal Violence, 37 J. INTERPERSONAL VIOLENCE NP15594 (2022) (finding that telehealth options were unavailable for

In the legal context, lack of availability can mean the lack of a legal remedy for the help seeker's problem. For example, it can refer to the annual 10,000 cap on U Visas for DV survivors who help law enforcement, leaving most qualifying survivors without a path to a legal immigration status.<sup>72</sup> Another example of lack of availability of a legal right is that some states exclude unmarried/non-cohabitating, lesbian, or transexual survivors from obtaining protective orders,<sup>73</sup> making that legal right unavailable to those survivors. In the study, we ask a similar question for our availability analysis: To what extent is the body of law available as relief for coerced debt? Just as the narrow eligibility criteria some states apply to protective orders makes them unavailable to certain IPV survivors,<sup>74</sup> the limitation of unauthorized use law to credit- and debit-card transactions, for example, makes it unavailable for coerced debts of other loan types.<sup>75</sup>

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rural IPV survivors with disabilities); Carmen Alvarez et al., *Responding to Intimate Partner Violence: Healthcare Providers' Current Practices and Views on Integrating a Safety Decision Aid into Primary Care Settings*, 41 RSCH. NURSING & HEALTH 145 (2018) (identifying a lack of IPV screening and response protocols in primary care settings).

<sup>72</sup> *Can this Provider?* *supra* note 68, at 988 (citing J. Nicole Alanko, "Helpfulness" Is a Two-Way Street: How the Commonwealth of Virginia Can Support Undocumented Survivors of Domestic Violence, 16 HASTINGS RACE & POVERTY L.J. 35 (2019)).

<sup>73</sup> Jenna M. Calton, Lauren Bennett Cattaneo & Kris T. Gebhard, *Barriers to Help Seeking for Lesbian, Gay, Bisexual, Transgender, and Queer Survivors of Intimate Partner Violence*, 17 TRAUMA, VIOLENCE, & ABUSE 585, 591 (2016) (explaining that states typically exclude LGBT individuals from obtaining protection orders by specifically omitting them from PO statutes, allowing local authorities to interpret on a case-by-case basis whether LGBT individuals are included in unclear PO provisions, or imposing specific hurdles like cohabitation requirements for LGBT claimants); *Questions and Conundrums*, *supra* note 67, at 183 (discussing statutory eligibility criteria to access protection orders, including marriage and childbearing status).

<sup>74</sup> Calton et al., *supra* note 73 at 591 (identifying statutory barriers that make protection orders unavailable for LGBT victims of IPV); *Questions and Conundrums*, *supra* note 67, at 183 (providing examples of IPV victims excluded from legal protection because of statutory eligibility criteria like proof of cohabitation and childbearing status); TK Logan, Lisa Shannon & Robert Walker, *Protective Orders in Rural and Urban Areas: A Multiple Perspective Study*, 11 VIOLENCE AGAINST WOMEN 876, 882 (2005) ("[T]o be eligible for a protective order in the state targeted for the study, a person must be married to the respondent, formerly married, have a child in common . . .").

<sup>75</sup> See *infra* Section V.A.1.

## 2. Accessibility

The central question of accessibility is the extent to which a help seeker can use a service or legal right without being stymied by barriers<sup>76</sup> such as cost,<sup>77</sup>

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<sup>76</sup> Sohng Oyewuwo et al., *Do Hispanic and Non-Hispanic Women Survivors of Intimate Partner Violence Differ in Regards to Their Help-Seeking? A Qualitative Study*, 30 J. FAM. VIOLENCE 839, 848 (2015) (“[L]ogistical issues, such as . . . overlapping court dates, taking time off from work, and arranging child care, discouraged the participants from accessing the court system. . . .”).

<sup>77</sup> *Can this Provider? supra* note 68, at 984; TK Logan et al., *Barriers to Services for Rural and Urban Survivors of Rape*, 20 J. INTERPERSONAL VIOLENCE 591, 595 (2005) [hereinafter *Barriers to Services*] (finding that the cost of therapy and other services was a barrier for sexual assault survivors); Olunmi Basirat Oyewuwo-Gassikia, *American Muslim Women and Domestic Violence Service Seeking: A Literature Review*, 31 AFFILIA: J. WOMEN & SOC. WORK 450, 457 (2016) (synthesizing studies, one of which found that cost of services was a barrier for Muslim American help seekers).

location,<sup>78</sup> language,<sup>79</sup> lack of knowledge,<sup>80</sup> and bureaucracy.<sup>81</sup> In the legal context, lack of knowledge of legal rights can be a major barrier.<sup>82</sup> Several studies and literature reviews synthesizing multiple studies, particularly of immigrant IPV

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<sup>78</sup> *Can this Provider?* *supra* note 68, at 987 (“emergency and transitional housing programs offered by DV providers are especially unlikely to be available in rural areas”); Kristen E. Ravi, Sarah R. Robinson & Rachel Voth Schrag, *Facilitators of Formal Help-Seeking for Adult Survivors of IPV in the United States: A Systematic Review*, 23 TRAUMA, VIOLENCE, & ABUSE 1420, 1428–29 (2021) (“[P]articipants in the included articles suggested that IPV services . . . be located in places that are easy for them to access due to potential transportation challenges . . . or in places survivors go routinely [to] increas[e] survivor safety and comfort by providing plausible ‘other reasons’ to be in a location”).

<sup>79</sup> *Id.* at 1428; *Can this Provider?* *supra* note 68, at 984; Marie Crandall et al., “No Way Out”: *Russian-Speaking Women’s Experiences With Domestic Violence*, 20 J. INTERPERSONAL VIOLENCE 941, 950 (2005) (finding language to be a barrier for Russian immigrant IPV survivors seeking services); Rachel E. Latta & Lisa A. Goodman, *Considering the Interplay of Cultural Context and Service Provision in Intimate Partner Violence: The Case of Haitian Immigrant Women*, 11 VIOLENCE AGAINST WOMEN 1441, 1451 (2005) (finding language to be a barrier for Haitian IPV survivors seeking services); Mookerjee et al., *supra* note 76, at 847 (“For the Hispanic women, the lack of translators and documents in Spanish posed a significant hurdle to using the police, courts and other formal systems of support.”); Oyewuwo-Gassikia, *supra* note 77, at 457 (finding language to be a barrier for Muslim American IPV survivors); Maia Ingram et al., *Experiences of Immigrant Women Who Self-Petition Under the Violence Against Women Act*, 16 VIOLENCE AGAINST WOMEN 858, 871 (2010) (finding language to be a barrier to obtaining U Visas among undocumented Mexican IPV survivors).

<sup>80</sup> Kathryn J. Holland & Lilia M. Cortina, “It Happens to Girls All the Time”: *Examining Sexual Assault Survivors’ Reasons for Not Using Campus Supports*, 59 AM. J. CMTY. PSYCH. 50, 55 (2017) (finding college student participants’ limited knowledge of campus support services contributed to lack of use by eligible sexual assault survivors); *Barriers to Services*, *supra* note 77, at 598 (finding lack of knowledge of rape crisis centers’ scope was a barrier to accessing services); Richard L. Beaulaurier, Laura R. Seff & Frederick L. Newman, *Barriers to Help-Seeking for Older Women Who Experience Intimate Partner Violence: A Descriptive Model*, 20 J. WOMEN & AGING 231, 241 (finding that some older IPV survivors did not know where to get help or how to find services); Oyewuwo-Gassikia, *supra* note 77, at 458 (synthesizing studies finding that Muslim American IPV survivors cited lack of knowledge as a barrier to seeking services).

<sup>81</sup> *Barriers to Services*, *supra* note 77, at 599 (finding that having to retell their stories in the process of obtaining appointments as well as insurance, paperwork, and referrals were barriers to obtaining services for sexual assault for urban and rural survivors); *Questions and Conundrums*, *supra* note 67, at 183 (synthesizing studies findings that “(a) having to return to court multiple times for court hearings and related matters, (b) limited hours that protective orders can be accessed, and (c) difficulty associated with obtaining or serving the protective order” were barriers to obtaining them); Mookerjee et al., *supra* note 76, at 847 (“The non-Hispanic participants . . . were burdened by having to piece together their history of abuse for different support personnel repeatedly (different courts, police officers, etc.). They felt the systems were working in isolation . . .”).

<sup>82</sup> *See e.g.*, *Can this Provider?* *supra* note 68, at 989 (“As with other services, many survivors’ access to the legal system and their rights under the law are curtailed because of limited outreach and education, especially among those who have recently immigrated and/or do not speak English.”).

survivors, found that lack of knowledge of U.S. criminal, immigration, or divorce law was a barrier to help seeking.<sup>83</sup> For example, one study surveyed two groups of Latina survivors – one of residents/citizens and one of undocumented IPV survivors.<sup>84</sup> The researchers found that sixteen percent of the resident/citizen group and forty-one percent of the undocumented group did not know what a protective order was before entering a DV shelter.<sup>85</sup> They also found that one-third of resident/citizen participants and nearly two-thirds of undocumented participants did not file for protective orders before coming to DV shelters because they did not know how.<sup>86</sup> Thus, in the current study, interviewers briefly explained each of three debtor-creditor laws studied and then asked participants if they were aware of these laws.<sup>87</sup>

Although we have not seen studies in the help-seeking literature in which the cost of attorney fees was a barrier to help-seeking,<sup>88</sup> perhaps because much of the IPV literature uses samples of women in shelters,<sup>89</sup> who would qualify for free

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<sup>83</sup> Crandall et al., *supra* note 79, at 949 (finding lack of knowledge of U.S. divorce and immigration law to be a barrier to help seeking among Russian immigrant IPV survivors); Latta & Goodman, *supra* note 79, at 1454 (finding that Haitian IPV survivors wanted workshops on U.S. IPV and immigration laws); Neely Mahapatra & Abha Rai, *Every Cloud Has a Silver Lining But . . . “Pathways to Seeking Formal Help and South Asian Immigrant Women Survivors of Intimate Partner Violence,”* 40 HEALTH CARE WOMEN INT’L 1170, 1180 (2019) (finding that South Asian IPV survivors described “personal ignorance of the criminal justice system in the new country” at a barrier to obtaining help); Laura Ting & Subadra Panchanadeswaran, *Barriers to Help-Seeking Among Immigrant African Women Survivors of Partner Abuse: Listening to Women’s Own Voices,* 18 J. AGGRESSION, MALTREATMENT & TRAUMA 817, 826 (2009) (describing participants’ lack of awareness that domestic violence was criminalized in the U.S. as a barrier to seeking help among African immigrant IPV survivors); Ingram et al., *supra* note 79, at 871 (finding that one improvement undocumented Mexican survivors suggested for the VAWA process of self-petitioning for U visas was to have it explained thoroughly).

<sup>84</sup> Jill Theresa Messing, Sujei Vega & Alesha Durfee, *Protection Order Use Among Latina Survivors of Intimate Partner Violence,* 12 FEMINIST CRIMINOLOGY 199, 200 (2017).

<sup>85</sup> *Id.* at 209 tbl. 3.

<sup>86</sup> *Id.* at 213 tbl. 5.

<sup>87</sup> *See, infra* Section V.A.

<sup>88</sup> The closest we could find are two articles, in which DV survivors identified a need for funds for legal services and needed pro bono legal services. Crandall et al., *supra* note 79, at 951 (“[Study participants] described the importance of assisting with transportation, money for legal assistance, help with education, more widespread domestic violence services, and help finding a job.”); Kevin Lam, *Mediating Domestic Violence Disputes in Chinese Immigrant Families in the U.S.: The Case for Court-Appointed Mediation Programs,* 17 CARDOZO J. CONFLICT RESOL. 989, 1012, note 142 (2016) (“Victims of domestic violence often must rely on pro bono lawyers or law students, but in such complex cases, they actually need lawyers who are experienced in and sensitive to issues of intimate violence.”).

<sup>89</sup> *E.g.*, Messing et al., *supra* note 84, at 204 (“Quantitative sample . . . data were collected from [660] women at 10 domestic violence shelters . . . .”); Lauren S. Deutsch et al., *Bruise Documentation, Race and Barriers to Seeking Legal Relief for Intimate Partner Violence*

legal services,<sup>90</sup> we have evidence that attorney cost serves as a barrier to accessing the two legal remedies for which we studied it, divorce and bankruptcy law. For divorce, we found indirect evidence that cost played a role in participant decisions of whether to hire a divorce attorney. Specifically, we found that participants having major concerns (versus minor concerns) about the cost of a divorce attorney was significantly correlated with not having a divorce attorney. We also found that participants who had divorce attorneys were significantly more likely to have paid off their coerced debt by the time of the divorce than participants who did not have attorneys.<sup>91</sup>

Consumer bankruptcy is a field in which the cost of attorney fees is a well-documented barrier to a bankruptcy discharge. Attorney affordability became a major issue after the 2005 overhaul of the consumer bankruptcy system,<sup>92</sup> which appears to have increased attorney fees.<sup>93</sup> Higher attorney fees resulted in

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*Survivors: A Retrospective Qualitative Study*, 32 J. FAM. VIOLENCE 767 (2017) (acknowledging that sample participants “were recruited from an IPV support group located at an IPV shelter, which is a select population that is not representative of all IPV victims”); Mahapatra & Rai, *supra* note 83, at 1175 (recruiting sample of South Asian women domestic violence survivors from a South Asian Women’s Organization that offers DV services); Crandall et al., *supra* note 79, at 943–44 (explaining that study participants were recruited from clientele of Refugee Women’s Alliance, a community-based domestic violence agency, and “96% had accessed domestic violence services”).

<sup>90</sup> See, e.g., *Qualifying for Legal Aid*, TEX. L. HELP (last visited July 13, 2025), <https://texaslawhelp.org/qualifying-for-legal-aid> (“A common eligibility requirement is a household income level below 125% (and sometimes 200%) of the Federal Poverty Guidelines.”); ELEANOR LYON, SHANNON LANE & ANNE MENARD, MEETING SURVIVORS’ NEEDS: A MULTI-STATE STUDY OF DOMESTIC VIOLENCE SHELTER EXPERIENCES 62 tbl. 11 (2009) (finding that among 3,410 survivors residing in domestic violence shelters, 83% reported needing access to affordable housing); Amanda Stylianou & Changnary Pich, *Beyond Domestic Violence Shelter: Factors Associated with Housing Placements for Survivors Exiting Emergency Shelters*, 36 J. INTERPERSONAL VIOLENCE NP9441, NP9448 (2019) (reporting that 74% of domestic violence shelter residents entered the shelter with no income (40.4%) or less than \$500 per month income (33.7%).

<sup>91</sup> See *infra* Section IV.C.

<sup>92</sup> Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109–8, 119 Stat. 23 (2005).

<sup>93</sup> U.S. GOV’T ACCOUNTABILITY OFF., GAO-08-697, DOLLAR COSTS ASSOCIATED WITH THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005, at 27 (2008), <http://www.gao.gov/new.items/d08697.pdf> (finding that chapter 7 attorney fees increased by 51% post-BAPCPA and chapter 13 fees increased by 50%); Lois R. Lupica, *The Consumer Bankruptcy Fee Study: Final Report*, 20 AM. BANKR. INST. L. REV. 17, 105-06 (2012) (finding that attorney fees increased after BAPCPA, although the increases varied dramatically across geographic and judicial divisions); Angela Littwin, *Adapting to BAPCPA*, 90 AM. BANKR. L.J. 183, 220–24 (2015) (documenting qualitatively the factors consumer bankruptcy attorneys cited for increasing their costs post-BAPCPA).

consumers delaying bankruptcy<sup>94</sup> or foregoing it altogether.<sup>95</sup> Lack of affordability also distorts some debtors' choice of bankruptcy chapter and leaves many debtors exiting bankruptcy still owing debts they could have discharged in another chapter.<sup>96</sup> Filing for consumer bankruptcy without an attorney does not solve the problem. Since 2005, pro se debtors are significantly less likely than represented debtors to receive a discharge,<sup>97</sup> and their dismissals are overwhelmingly for failure

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<sup>94</sup> Ronald J. Mann & Katherine Porter, *Saving Up for Bankruptcy*, 98 GEO. L. REV. 289, 313–15, 330–32 (2010) (estimating that consumers delayed their bankruptcy filings to save up to afford a bankruptcy attorney and finding these effects more pronounced post-BAPCPA).

<sup>95</sup> Stefania Albanesi & Jaromir Nosal, *Insolvency after the 2005 Bankruptcy Reform*, FEDERAL RESERVE BANK OF NEW YORK STAFF REPORTS, NO. 725, April 2015, at 3–4 (finding that, after BAPCPA's increase in attorney fees, consumers were less likely to file for bankruptcy and more likely to remain in financial distress than before the statute's implementation, with the effects being particularly pronounced for lower-income filers and in states where attorney fees increased steeply); Angela Littwin, *supra* note 93, at 231–33 (2015) (arguing that BAPCPA depressed bankruptcy filings, even when filing rates were high, such as during the 2009–2011 foreclosure crisis).

<sup>96</sup> Pamela Foohey et al., “No Money Down” Bankruptcy, 90 S. Cal. L. Rev. 1055, 1060, 1081 (2017) (finding that “no money down” chapter 13 filers, who paid no pre-petition attorney fees, had financial profiles closely resembling those of chapter 7 filers, that 55% of such filers exited chapter 13 bankruptcy without a discharge and that Black filers disproportionately filed no money down); Sarah S. Greene, Parina Patel & Katherine Porter, *Cracking the Code: An Empirical Analysis of Consumer Bankruptcy Outcomes*, 101 MINN. L. REV. 1031, 1043 tb1. 1, 1060 (2017) (finding that 45.5% of chapter 13 cases were successful, including 9.5% that were converted to chapter 7, and that race was the strongest predictor of chapter 13 completion where Black chapter 13 filers were 17% less likely to complete chapter 13 than were their non-Black counterparts); Paul Kiel with Hannah Fresques, *How the Bankruptcy System Is Failing Black Americans*, PROPUBLICA & THE ATLANTIC, Sep. 27, 2017, <https://features.propublica.org/bankruptcy-inequality/bankruptcy-failing-black-americans-debt-chapter-13/> (“Nationally, the odds of black debtors choosing Chapter 13 instead of Chapter 7 were more than twice as high as for white debtors with a similar financial profile. And once they chose Chapter 13, we found, the odds of their cases ending in dismissal — with no relief from their debts — were about 50 percent higher.”).

<sup>97</sup> Angela Littwin, *The Affordability Paradox: How Consumer Bankruptcy's Greatest Weakness May Account for Its Surprising Success*, 52 WM. & MARY L. REV. 1933, 1956–57 (2011) [hereinafter *The Affordability Paradox*] (finding that, after BAPCPA, pro se debtors in chapter 7 were significantly less likely to receive a discharge than their represented counterparts); Angela Littwin, *The Do-It-Yourself Mirage*, in BROKE: HOW DEBT BANKRUPTS THE MIDDLE CLASS 151–53 (Katherine Porter ed., 2012) [hereinafter *The Do-It-Yourself Mirage*] (finding that 20 percent of Chapter 7 pro se debtors in the 2007 Consumer Bankruptcy Project did not receive a discharge compared to 2 percent of represented debtors); Paul Kiel & Hannah Fresques, *Data Analysis: Bankruptcy and Race in America*, PROPUBLICA, Sep. 27, 2017, at 7–8, <https://static.propublica.org/projects/bankruptcy-methodology/BankruptcyAndRaceInAmerica.pdf> (finding that approximately one-third of Black pro se chapter 7 filers in a national sample failed to receive a discharge compared to 4% of Black chapter 7 filers represented by attorneys).

to meet technical bankruptcy requirements that rarely stymie represented debtors.<sup>98</sup> As one commentator stated: “the high pro se failure rate since 2005 suggests that it is reasonable to equate the inability to afford a lawyer with having less than full access to the bankruptcy system.”<sup>99</sup>

### 3. Acceptability

Acceptability addresses the extent to which the service or legal relief comports with help seekers’ values and beliefs. IPV studies have documented myriad accessibility concerns: a system’s degree of cultural competence,<sup>100</sup> help seekers’ feelings of shame and fear of stigma,<sup>101</sup> the attitudes of system actors such

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<sup>98</sup> *The Do-It-Yourself Mirage*, *supra* note 97, at 154–55 (finding that pro se debtors faced technical deficiency motions in 43.1% of Chapter 7 cases (vs. 16.7% for represented debtors) with 40% of such cases dismissed on technical grounds (vs. 7.4% for represented debtors), and in Chapter 13 cases pro se debtors faced technical deficiency motions in 54.2% of cases (30.8% for represented debtors) and 100% of their cases facing such a motion were dismissed (10% for represented debtors)); Rafael I. Pardo, *An Empirical Examination of Access to Chapter 7 Relief by Pro Se Debtors*, 26 *Bankr. Devs. J.* 5, 19 (2009) (finding that chapter 7 cases filed by *pro se* filers in the U.S. Bankruptcy Court for the Western District of Washington from 2003 to 2007 had statistically significant higher dismissal rates than chapter 7 cases of represented debtors).

<sup>99</sup> *The Affordability Paradox*, *supra* note 97, at 1956–57; see also Angela Littwin, *Low-Income, Low-Asset Debtors in the U.S. Bankruptcy System*, 29 *INT’L INSOLVENCY REV.* S116, S120 (2020) [hereinafter *Low-Income, Low-Asset Debtors*] (“In sum, lower income, lower asset debtors are facing two important problems, both of which relate to the challenge of paying for the high access costs of bankruptcy: exclusion from the system altogether and inappropriate use of Chapter 13,” the form of consumer bankruptcy that is more expensive and less likely to result in a discharge).

<sup>100</sup> See Yang Li et al., *Exploring Help-Seeking Experiences of Chinese Immigrant Survivors of Intimate Partner Violence in the U.S.*, 14 *PSYCH. TRAUMA* 91, 96 (finding that mental health provider cultural incompetence was a barrier to seeking help in Chinese immigrant IPV survivors); Oyewuwo-Gassikia, *supra* note 77, at 457 (synthesizing studies in which one found that nearly half of American Arab IPV survivors considered it problematic that there were not health services designed for Arab women); Nkiru A. Nnawulezi & Cris M. Sullivan, *Oppression Within Safe Spaces: Exploring Racial Microaggressions Within Domestic Violence Shelters*, 40 *J. BLACK PSYCH.* 563, 573–74 (2014) (documenting Black shelter residents’ experiences of racial microaggressions by shelter staff and residents).

<sup>101</sup> See Holland & Cortina, *supra* note 80, at 55–56 (explaining that negative emotions like embarrassment and shame deterred respondent survivors from using campus supports); *Barriers to Services*, *supra* note 77, at 600 (“In addition to self-blame and shame, participants in every focus group mentioned that the fear that no one will believe the victim and that potential blaming reactions were major reasons women did not seek help.”); Brenda M. Booth & Yvonne S. McLaughlin, *Barriers to and Need for Alcohol Services for Women in Rural Populations*, 24 *ALCOHOLISM: CLINICAL & EXPERIMENTAL RSCH.* 1267, 1270 (2000) (“[W]e can infer that rural women with alcohol problems may be particularly stigmatized.”).

as legal officials,<sup>102</sup> and the efficacy of the system.<sup>103</sup> In the IPV literature, acceptability also encompasses fear of retaliation by the abuser.<sup>104</sup> In other words, acceptability encompasses the features of a system that discourage help seekers from using it even if it is available and accessible. Acceptability can be particularly important in determining whether a help seeker obtains help, because a help seeker who has a negative experience is less likely to seek help in the future.<sup>105</sup>

For divorce law, we operationalized acceptability by asking about the factors that influenced participants' decisions to not raise coerced debt as an issue in their divorces.<sup>106</sup> Because so few people use debtor-creditor law,<sup>107</sup> we could not ask about participants' direct experiences with it or ask them to evaluate specific factors, such as cultural competence. Instead, we asked participants to rate their

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<sup>102</sup> See Carrie Lippy et al., *The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change*, 35 J. FAM. VIOLENCE 255, 260 (2020) (finding that more than one-third of a sample of callers to the National Domestic Violence Hotline did not ask for help from at least one person for fear that "their information would be reported to an official or an authority figure"); Michele R. Decker et al., "*You Do Not Think of Me as a Human Being*": Race and Gender Inequities Intersect to Discourage Police Reporting of Violence Against Women, 96 J. URB. HEALTH 772, 775–76 (2019) (finding that factors such as discriminatory conduct by police made IPV and sexual assault survivors in Baltimore less likely to seek help from the police); Nnawulezi & Sullivan, *supra* note 100, at 566 ("Black women described carrying the burden of having to continuously prove their survivor status in order to get needed services."); TK LOGAN ET AL., PARTNER STALKING: HOW WOMEN RESPOND, COPE, AND SURVIVE 231 (2006) [hereinafter HOW WOMEN RESPOND] ("[W]omen talked about the fact that the health and mental health professionals were too busy or uninterested in hearing about partner violence and stalking.").

<sup>103</sup> See Lynn A. Addington, *Exploring Help-Seeking Patterns for Emerging Adult Victims Using the National Intimate Partner and Sexual Violence Survey*, 28 VIOLENCE AGAINST WOMEN 1188, 1202 (finding that a sample of 18–25-year-old IPV survivors was equally divided on the question of whether or not police had been helpful); HOW WOMEN RESPOND, *supra* note 102, at 272 ("In the smaller rural communities . . . personal connections between community members and justice system personnel can help perpetrators avoid punishment and prevent the justice system from serving victims."); *Questions and Conundrums*, *supra* note 67, at 185 ("[T]here is a perception by some women that the protective order is 'just a piece of paper.' In other words, some women doubt the effectiveness of a piece of paper in stopping someone who is violent."); *Barriers to Services*, *supra* note 77, at 599 ("Participants in rural and urban groups suggested the incompetence of medical professionals regarding sexual assault is a major problem.").

<sup>104</sup> HOW WOMEN RESPOND, *supra* note 102, at 279 (finding that 48% of respondent survivors mentioned fear of perpetrator retaliation as a barrier to utilizing the justice system); *Questions and Conundrums*, *supra* note 67, at 185 ("The most common acceptability barrier mentioned in the literature was the fear of perpetrator retaliation.").

<sup>105</sup> Kennedy et al., *supra* note 10, at 221 (reviewing studies suggesting that African-American and Latina sexual assault and IPV survivors are less likely than White survivors to seek mental health treatment due to past discrimination).

<sup>106</sup> See *infra* Section IV.A.

<sup>107</sup> See *supra* note 9 and accompanying text.

willingness to use the debtor-creditor laws,<sup>108</sup> so their answers encompassed all experiences, information, thoughts, and feelings they had about each law.<sup>109</sup>

## B. Disputes as Social Constructs

There is a set of counterarguments that suggest our help-seeking analysis puts the cart before the horse in that we analyze legal relief for coerced debt before considering the extent to which study participants deemed themselves to be in need of legal remedies. In other words, instead of asking participants about the extent to which they saw coerced debt as a problem in need of legal redress, we jumped straight to asking about the effectiveness of legal remedies for their coerced debts. Our approach is valid, however, because there is a critical need for legal relief from coerced debt among survivors outside our study who seek help for it,<sup>110</sup> so it is important to examine whether existing legal relief is effective, regardless of our participants' conceptions of their legal needs.

This potential critique derives from the Law and Society literature on “naming, blaming, and claiming,” which posits that disputes are social constructs.<sup>111</sup> Before considering legal action, people who have experienced injury addressable with a civil legal remedy must undergo the process of: (1) “naming,” characterizing an experience as injurious;<sup>112</sup> (2) “blaming,” attributing the injury to the fault of another;<sup>113</sup> and (3) “claiming,” voicing the grievance to the party believed to be responsible and seeking a remedy.<sup>114</sup> In turn, a claim becomes a dispute when the alleged responsible party “reject[s] it in whole or in part.”<sup>115</sup>

Professor Rebecca Sandefur's body of work, in particular, extends this conceptualization in ways that appear to challenge our help-seeking framework. Specifically, her work posits that when faced with justiciable problems, i.e., injuries subject to redress by the civil legal system: (1) “doing nothing” is a common and

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<sup>108</sup> See *infra* Section V.C.

<sup>109</sup> This is similar to the approach used in Addington, which reported on the degree of helpfulness of formal and informal supports to 18–25-year-old IPV survivors. Addington, *supra* note 103, at 1200–02.

<sup>110</sup> See *infra* notes 131–136 and accompanying text.

<sup>111</sup> William L.F. Felstiner, Richard L. Abel & Austin Sarat, *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . .*, 15 LAW & SOC'Y REV. 631, 633–36 (1980)

(introducing the foundational “naming, blaming, claiming” framework and arguing that disputes are not objective occurrences but socially constructed through interpretive stages that transform everyday grievances into legal claims).

<sup>112</sup> *Id.* at 635 (describing “naming” as the initial step in which individuals identify an experience as an injury).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* at 635–36.

<sup>115</sup> *Id.* at 636.

underestimated response;<sup>116</sup> (2) when people do take action, seeking relief outside the legal system is often preferred to relief that requires attorney assistance;<sup>117</sup> and (3) cost and knowledge of legal rights are not important barriers that prevent access to the legal system.<sup>118</sup>

These arguments, although persuasive as a general matter and documented empirically to the extent feasible, do not, however, undermine our help-seeking analysis for five reasons. First, as Sandefur emphasizes in her more recent work, not taking action can result in significant harm to those who have been injured,<sup>119</sup> and the harm associated with unaddressed coerced debt is well-documented.<sup>120</sup> Second, while there are remedies for coerced debt that do not require legal process and/or the hiring of an attorney, they require intensive, time-consuming advocacy that is frequently unsuccessful.<sup>121</sup> Third, the literature on disputes as social constructs does not address a situation that is key for coerced debt: when there is a need for a legal remedy that does not exist.<sup>122</sup> We address this crucial scenario with our availability analysis.<sup>123</sup> Fourth, although there are certainly other reasons why victims of coerced debt do not seek legal redress for it, cost appears to be factor in whether or not our participants hired attorneys for their divorces, and the role of

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<sup>116</sup> Rebecca L. Sandefur, *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, in TRANSFORMING LIVES: LAW AND SOCIAL PROCESS 112–13 (Pascoe Pleasence et al. eds., 2007) [hereinafter *The Importance of Doing Nothing*] (finding results suggesting that in response to justiciable civil legal problems, many people—especially those with lower incomes—frequently take no action, a response often overlooked in access-to-justice debates).

<sup>117</sup> See Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 770 (2021) (“The sociolegal literature is replete with studies of communities where people resolve problems in ways that are lawful or welfare-enhancing without turning to the formal law.”); Rebecca L. Sandefur, *Fulcrum Point of Equal Access to Justice: Legal and Nonlegal Institutions of Remedy*, 42 LOY. L.A. L. REV. 949, 953 (2009) [hereinafter *Fulcrum Point*] (“A pattern of perverse aleuality characterizes how ordinary people across societies handle their own everyday civil justice problems” and that “the financial cost of using lawyers’ services is not the only factor affecting how people respond to civil justice problems: people often do not consult lawyers even when lawyers’ services are relatively inexpensive”).

<sup>118</sup> See *id.* at 955 (“[T]he financial cost of using lawyers’ services is not the only factor affecting how people respond to civil justice problems: people often do not consult lawyers even when lawyers’ services are relatively inexpensive.”); Sandefur & Teufel, *supra* note 117, at 770 (“When people do turn to the formal law with their justice problems, they do not always need legal experts’ assistance, and indeed sometimes that assistance actually makes things worse for those clients who receive it.”);

<sup>119</sup> Rebecca L. Sandefur, *Access to What?*, 148 *Dædalus* 49, 54 (2019) (“When these problems do not get resolved effectively, the consequences can be homelessness, poverty, illness, injury, or the separation of families who want to stay together.”)

<sup>120</sup> See *infra* notes 143–147 and accompanying text.

<sup>121</sup> *Id.*

<sup>122</sup> See *infra* Section III.B.3.

<sup>123</sup> See *supra* Section III.A.1.

attorney costs in access to bankruptcy is well-documented.<sup>124</sup> In addition, the role of awareness as a barrier to obtaining help for IPV is documented empirically in the help-seeking literature.<sup>125</sup> Finally, the help-seeking and disputes-as-construct frameworks have significant overlaps; many of our data points discussed below can be analyzed under both rubrics.<sup>126</sup>

### 1. Harm of Not Taking Action

Doing nothing is the most common response to justiciable problems,<sup>127</sup> often for good reasons. In a set of focus groups, Sandefur found five reasons for doing nothing in response to housing and money problems for which legal solutions were available, including shame, which was particularly prevalent regarding money problems; fear, for example, of retaliation; and frustrated resignation, derived from past experience.<sup>128</sup> These are compelling reasons, and a few overlap with reasons why participants in the current study did not raise coerced debt as an issue in their divorces.<sup>129</sup>

But as Sandefur acknowledges in a later article, people's decisions to do nothing or not to take legal action can sometimes be "disastrously wrong."<sup>130</sup> And in the case of coerced debt, we approached this project with more than a decade of experience with the harms women experience from it. The first article on the topic, in which one of us coined the term "coerced debt," documented the consensus among DV professionals who worked with victims that damaged credit ratings were a major consequence of coerced debt.<sup>131</sup> For example, that initial article reported:

The advocates I interviewed overwhelmingly reported damage to their clients' credit scores. As one lawyer who staffs a family law hotline stated, "My major concern is her credit report." Another said, "Oh yeah, that's really common. There's no good way around

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<sup>124</sup> See *supra* Section III.A.2.

<sup>125</sup> See *id.*

<sup>126</sup> See *infra* Section III.B.5.

<sup>127</sup> *The Importance of Doing Nothing*, *supra* note 116, at 113 (finding results suggesting that low-income individuals often take no action in response to justiciable problems).

<sup>128</sup> *Id.* at 123-24 (identifying shame, powerlessness, fear, gratitude, and resignation as reasons low- and moderate-income individuals often do nothing in response to housing and financial legal problems).

<sup>129</sup> See *infra* Section IV.A.

<sup>130</sup> Sandefur, *supra* note 119, at 52 (noting that decisions to do nothing about legal problems can sometimes be disastrously wrong). See also *Fulcrum Point*, *supra* note 117, at 954 (framing her research in *The Importance of Doing Nothing* as: "A study of how Americans handle common civil justice problems involving money and housing found that they frequently did not try to resolve these problems, even when problems involved serious threats to their physical safety, creditworthiness, ability to pay their bills, or household solvency.")

<sup>131</sup> *Coerced Debt*, *supra* note 2, at 1003-06.

it.” Other advocates said that it “absolutely” was an issue and that they see it “over and over again” or “all the time.” One social worker stated that her clients' credit ratings were ruined “almost across the board.”<sup>132</sup>

Interviewees, including attorneys, social workers, financial counselors, psychologists, and lay advocates,<sup>133</sup> then detailed the harm that coerced debt caused survivors. The use of credit reports by employers, landlords and utility providers meant that DV survivors faced longer shelter stays<sup>134</sup> and created barriers to leaving abusive relationships in the first place.<sup>135</sup>

Later direct research with DV survivors confirmed coerced debt's association with damaged credit as well as staying longer than wanted in a controlling relationship due to financial dependence on abusive partners.<sup>136</sup>

That said, many of the participants in our study took the route of doing nothing to challenge the coerced debt in that they paid it like any other debt. Estimates of study participant credit scores found that almost 35% of participants with coerced debt credit scores in the “very good” or higher FICO range.<sup>137</sup> It is likely that an important factor in paying the coerced debt was that participants did not conceptualize it as a legal problem. “Coerced debt” is not a term in general usage, and as this manuscript demonstrates, there are not dedicated legal remedies for it.

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<sup>132</sup> *Id.* at 1001 (internal citations omitted).

<sup>133</sup> Although the majority of the professionals interviewed were attorneys, the overwhelming majority of attorneys interviewed were from the non-profit sector, which meant that they had no financial interest in detailing the need for remedies for coerced debt. *Id.* at 971 & n.82. And in many cases, “coerced debt was actually a burden on the interviewees' practices. They often did not have the resources to address it directly because their organizations considered it secondary to addressing basic safety issues.” *See id.* at 971.

<sup>134</sup> *See id.* at 1002 (“Several interviewees believed that the difficulty survivors had obtaining housing had contributed to the problem of overcrowding in DV shelters.”).

<sup>135</sup> *See id.* (“Moreover, these credit issues create barriers to leaving the abusive relationship in the first place. A lawyer explained that one reason victims do not leave is that it is hard for victims to get an apartment when their credit is ruined: ‘If there were options for women getting their credit back, I think it would go a long way toward helping’ them leave. Another lawyer elaborated . . . ‘That creates even more barriers to her being able to successfully extract herself from that relationship.’”) (internal citations omitted).

<sup>136</sup> *The Frequency, Nature, and Effects of Coerced Debt*, *supra* note 4.

<sup>137</sup> The FICO “very good” range is from 740-799, and the “exceptional” range is from 800-850. <https://www.myfico.com/credit-education/credit-scores> (last visited Jan. 2, 2026). Participants without coerced debt had significantly higher credit scores than those with coerced debt (data on file with authors).

But the option to pay the debt as a form of doing nothing about coerced debt is not universally available and may be a result of our privileged sample. First, our participants had relatively high incomes,<sup>138</sup> which made paying coerced debt feasible. Many victims of coerced debt will not have the income to pay it. Second, our sample was very highly educated,<sup>139</sup> which may translate to financial sophistication, particularly about the damage that not paying can do to one's credit.

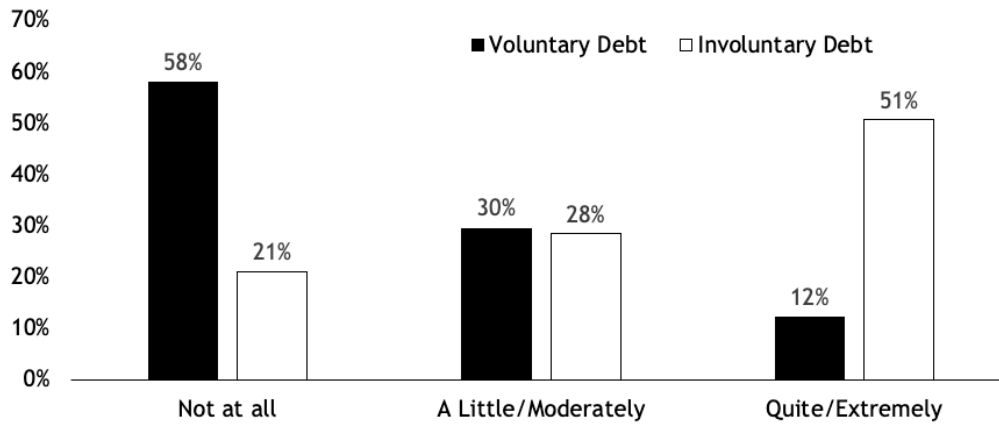
Finally, many participants would prefer not to pay their coerced debt if there were a remedy for it, as evidenced by participants' willingness to use the statute of limitations. As Figure 1 shows, more than three-quarters of participants with outstanding coerced debt at the time of their divorces (79%) were at least "a little" willing to stop paying their involuntary debts for four years in order to use the statute of limitations, while more than half (51%) were "quite" or "extremely" willing to do so. This willingness to stop paying involuntary debt contrasts with the very low percentages of these participants who said that they would be willing to stop paying debt they incurred voluntarily (42% with any willingness, 12% who were "quite" or "extremely" willing). The difference in responses to involuntary and voluntary debt was statistically significant, suggesting that participants were not simply seeking to avoid paying debt, but rather to cease being liable for involuntary debt.

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<sup>138</sup> *Describing Coerced Debt*, *supra* note 54, at X ("At the time of the divorce, almost half (47.6%) of the participants had a personal income of \$0 to \$50,000, another 35.8% reported a personal income between \$50,001 and \$100,000, and 16.6% had a personal income of over \$100,000.")

<sup>139</sup> *Id.* ("Most (77%) participants had a college degree; 7% had an associate's degree, 40.1% had a bachelor's degree, and 29.9% had an advanced degree. Another 12.8% attended some college and 3.2% completed trade school. Another 6.4% had only graduated from high school, and one participant had completed some high school.")

**Figure 1. Willingness to Use Statute of Limitations**



n = 81 participants. Differences significant at  $p < .001$ . Pearson chi-square statistic = 19.775.

## 2. Action Outside the Legal System

Sandefur also documents that remedies not requiring attorneys are more popular than court-based solutions when the former are available. For example, Sandefur cites a survey from England and Wales, which provide heavily subsidized access to legal services, that found that only ten percent of people with “difficult to solve” housing or money legal problems sought the assistance of lawyers, courts, or tribunals,<sup>140</sup> in large part because the United Kingdom features a rich network of less formal resources for resolving justiciable problems.<sup>141</sup> Sandefur also documents the lack of such extra-legal resources in the U.S., summarizing the situation as, “In the United States, people respond to their money and housing problems by choosing between what is broadly available: law or nothing.”<sup>142</sup>

Addressing coerced debt is one area in which attorneys and lay advocates do attempt to provide solutions beyond enforcing legal rights, but these efforts are prohibitively time-consuming and often ineffective. For example, in the first article

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<sup>140</sup> *Fulcrum Point*, *supra* note 117, at 953 (citing PASCOE PLEASANCE, CAUSES OF ACTION: CIVIL LAW AND SOCIAL JUSTICE 104 fig. 3.3 (2006)).

<sup>141</sup> *Id.* at 963–64 (“In addition to formal legal remedies, the United Kingdom also has a multitude of formal nonlegal institutions of remedy, including regulatory agencies and a number of government ombudsmen who can address housing, local government, financial services, and health services issues . . . . Formal institutions of remedy are complemented by a set of well-known, long-established, and nationally present advice providers.”)

<sup>142</sup> *Id.* at 968.

on coerced debt, co-author Littwin summarized advocates' attempts to repair survivors' damaged credit without filing lawsuits thusly: “[R]ehabilitating a credit report is a complex undertaking that requires intensive individual advocacy. And often, despite their best efforts, the advocates' attempts at credit repair were ineffective.”<sup>143</sup> For example, one financial counselor described credit repair for coerced debt as “near impossible,”<sup>144</sup> while another said that the year-long program at which she worked was not enough to clean up a coerced debt survivor's credit report.<sup>145</sup> An attorney described the process of credit repair as “so difficult,” even for experienced attorneys.<sup>146</sup> Other advocates attempted to address survivors' damaged credit directly with the entities from whom survivors needed services, such as employers, landlords, and utility companies. But this process was similarly arduous and often ineffective.<sup>147</sup>

There is anecdotal evidence that these types of problems continue to plague survivors of coerced debt. Advocacy groups, such as the Center for Survivor Agency & Justice's Coerced Debt Working Group<sup>148</sup> and the Texas Coalition on Coerced Debt,<sup>149</sup> which include advocates and attorneys who work directly with DV survivors, have invested significant effort into designing resources survivors can use to repair their own credit.<sup>150</sup> In addition, members of these same groups have been the driving forces behind proposed federal regulations that would expand the identity theft protection to coerced debt<sup>151</sup> and state laws protecting survivors

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<sup>143</sup> *Coerced Debt*, *supra* note 2, at 1003.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.* at 1003–04.

<sup>146</sup> *Id.* at 1004.

<sup>147</sup> *Id.* at 1004–05 (“As one Connecticut legal aid lawyer explained, credit-based denial of services ‘happens with so much regularity that we almost’ cannot do anything about it. She said that sometimes lawyers in her office write letters to landlords or employers, invoking the Violence Against Women Act, but that other times, they just beg.”) (internal citations omitted).

<sup>148</sup> CTR. FOR SURVIVOR AGENCY & JUST., COERCED DEBT WORKING GRP. & NAT'L CONSUMER L. CTR., *National Survey on Barriers to Disputing & Blocking Coerced Debt* (Feb. 2, 2025), <https://csaj.org/resource/2-barriers-to-disputing-blocking-coerced-debt-survey-data/> (last visited July 30, 2025).

<sup>149</sup> TEX. COAL. ON COERCED DEBT & TEX. APPLESEED, *Coerced Debt Toolkit: Addressing Identity Theft for Survivors of Finance Abuse*, <https://financialabusehelp.org/guide/coerced-debt-toolkit-overview/about-texas-appleseed-and-texas-coalition-coerced-debt> (last visited July 30, 2025).

<sup>150</sup> *See, e.g., id.*; Katie VonDeLinde et al., *Compendium on Coerced Debt*, CTR. FOR SURVIVOR AGENCY & JUST. (Oct. 31, 2022), <https://csaj.org/resource/compendium-on-coerced-debt/> (last visited July 30, 2025).

<sup>151</sup> CTR. FOR SURVIVOR AGENCY & JUST., *Major Milestone: CFPB Issues Advanced Notice of Rulemaking on Coerced Debt, Addressing Systemic Barriers to Safety for Domestic Violence Survivors* (Dec. 9, 2024), <https://csaj.org/major-milestone-cfpb-issues-advanced-notice-of-rulemaking-on-coerced-debt/> (last visited July 30, 2025). Although the NCLC and CSAJ are both impact organizations rather than providers of direct services, one of the key individuals behind this effort is Carla Sanchez Adams, who for more than a decade served survivors with consumer law

with coerced debt from debt collection.<sup>152</sup> Advocates would not undertake these efforts if the current system were working for survivors.

Finally, the remedies advocates seek are primarily administrative or private in nature, although legal change is necessary to compel the compliance of consumer reporting agencies and creditors. For example, the expansion of identity theft remedies to coerced debt, a top priority for advocacy groups,<sup>153</sup> would include coerced debt in the process whereby consumer reporting agencies (CRAs) must investigate and remove fraudulent debts from credit reports.<sup>154</sup> Although lawsuits are an important backstop to promote CRA compliance,<sup>155</sup> when the process works well, it is handled by private parties.<sup>156</sup> Another example is the 2025 New York law on coerced debt, which allows a survivor to block the collection of coerced debts by submitting documentation that the debts were coerced.<sup>157</sup> Once this law takes effect,<sup>158</sup> most of the work will take place between private parties rather than through adjudication. Although the proposed remedies for coerced debt are

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issues at Texas Rio-Grande Legal Aid. NAT'L CONSUMER L. CTR., *Carla Sanchez-Adams*, <https://www.nclc.org/people/carla-sanchez-adams/> (last visited July 30, 2025).

<sup>152</sup> See, e.g., TEX. COUNCIL ON FAM. VIOLENCE, *Capitol Crew Update: April 16, 2025* (Apr. 16, 2025), <https://tcfv.org/capitol-crew-update-april-16-2025/> (last visited July 30, 2025) (“TCFV Director of Public Policy, Molly Voyles testified in support of one of the Texas Coalition on Coerced Debt’s, and TCFV’s priority bills, HB 4238, to further support survivors of coerced debt.”) (citing H.B. 4238, 89th Leg., (Tex. 2025)); URB. RES. INST., *New York Poised to Become Fourth State in Nation to Give Survivors of Economic Abuse Powerful New Tool to Discharge a Coerced Debt* (May 19, 2023) (discussing support of advocacy groups including the Urban Resources Institute and the Anti-Violence Project for 2023 New York State Senate Bill S2278.). This bill was later reintroduced and enacted on December 29, 2025. See *infra* notes 157-158.

<sup>153</sup> See, e.g., *supra* note 151 and accompanying text.

<sup>154</sup> See 15 U.S.C. §§ 1681c–c-2, 1681i (containing procedures required by the Fair Credit Reporting Act for disputing inaccurate and fraudulent information in consumer reports); CONSUMER FIN. PROT. BUREAU, CFPB-2024-0057, ADVANCE NOTICE OF PROPOSED RULEMAKING (Dec. 13, 2024) (announcing proposed rulemaking and requesting public comment on proposal to amend FCRA definitions of “identity theft” to include “without effective consent” to require that CRAs block information related to coerced debts).

<sup>155</sup> See 15 U.S.C. §§ 1681n–o (imposing civil liability for negligent noncompliance and willful noncompliance with FCRA); *Ridenour v. Multi-Color Corp.*, 137 F. Supp.3d 452, 460–61 (E.D. Va. 2015) (holding that job applicant sufficiently alleged that CRA willfully violated obligation under FCRA to ensure accuracy of consumer report).

<sup>156</sup> See 15 U.S.C. §§ 1681c–c-2, 1681i (containing procedures required by the Fair Credit Reporting Act for disputing inaccurate and fraudulent information in consumer reports).

<sup>157</sup> N.Y. STATE SENATE BILL 1353 (2025-2026 Legislative Session), <https://legislation.nysenate.gov/pdf/bills/2025/s1353> (last visited Jan. 2, 2026).

<sup>158</sup> Its effective date is March 19, 2026, 90 from enactment. *Id.* at § 2. Governor Hochul signed the bill into law on December 19, 2025. N.Y. STATE SENATE BILL 1353 procedural history, <https://www.nysenate.gov/legislation/bills/2025/S1353/amendment/original> (last visited Jan. 2, 2026).

administrative or private, documenting the ineffectiveness of existing legal relief is helpful for winning approval of new remedies.

### 3. Claiming without Remedies

The literature on disputes as social constructs does not address what is a key problem for coerced debt – when injured parties need remedies that do not exist. The only mention we found of this phenomenon was that this situation fell outside the framework of justiciable problems.<sup>159</sup> This is not a fault of the literature on disputes, which is addressing a different set of problems, such as the facet of the access-to-justice literature which myopically focuses on the need for more lawyers and legal process to the exclusion of other solutions.<sup>160</sup> But it does mean that the dispute literature leaves an important gap when applied to coerced debt.

In contrast, the help-seeking framework addresses this issue with the availability analysis – i.e., the extent to which there is a remedy available for the participant's problem.<sup>161</sup> The need for legal relief has been an issue for coerced debt from the beginning. For example, in the first article on the topic, one attorney stated, “victims often believe that it will be easy to expunge coerced debt from their credit reports because it is so obviously fraudulent, but that this is not the case.”<sup>162</sup> Another described how a client with coerced debt experienced a car breakdown but could not repair or replace it due to her poor credit, saying of her client, “She can do nothing.”<sup>163</sup>

Fast forwarding to the current study, the most frequent reason participants gave for not raising coerced debts as issues in their divorces was attorney advice,<sup>164</sup> when only half of participants used a divorce attorney.<sup>165</sup> The frequency of this response suggests that these participants were seeking a remedy for their coerced debt but their attorneys did not believe one was available.

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<sup>159</sup> Sandefur & Teufel, *supra* note 117, at 756-59 (defining a justiciable event as a life situation that raises a civil legal issue and can be addressed under civil law).

<sup>160</sup> See, e.g., *Fulcrum Point*, *supra* note 117, at 950-51 (“When one examines how people actually handle their civil justice problems, one observes both a widespread resignation to these problems and an enormous variety of attempted remedies, a minority of which involve the explicit use of law.”). See also Catherine R. Albiston & Rebecca L. Sandefur, *Expanding the Empirical Study of Access to Justice*, 2013 Wis. L. Rev. 101, 116 (2013) (arguing that “studies of outcomes of individual cases leave out the numerous legal issues that do not end up in court.”).

<sup>161</sup> See *supra* Section III.A.1.

<sup>162</sup> *Coerced Debt*, *supra* note 2, at 1003.

<sup>163</sup> *Id.* at 1001.

<sup>164</sup> See *infra* Section IV.A. and Figure 3.

<sup>165</sup> See *infra* Section IV.C.

#### 4. Cost and Awareness of Legal Rights

While Sandefur provides evidence that our two accessibility measures – cost of attorneys and awareness of legal rights – are less important than other factors in reducing access to justice, there is nevertheless sufficient evidence to support our use of these measures to operationalize accessibility.

In Sandefur’s focus groups, cost did not arise as a reason for not taking action on a justiciable problem, although lack of awareness surfaced as a reason for not escalating beyond the initial person approached about the problem.<sup>166</sup>

In her article *Money Isn’t Everything*, Sandefur directly addresses the argument that cost is a major barrier in accessing legal services. She cites data suggesting that, with the exception of contested divorces, the costs of U.S. legal services middle-income individuals use are reasonable, especially when compared to the amounts that Americans spend on eating out and other entertainment.<sup>167</sup> She also cites data from a survey of moderate-income Americans, which found that only six percent of participants cited cost as a reason for not using legal services, compared to 27 percent who cited resignation and 13 percent who handled the problem another way.<sup>168</sup>

Similarly, in *Accessing Justice in the Contemporary USA*, Sandefur studied a random sample of adults in a Midwestern city in which participants described the actions they took or did not take in response to a justiciable problem.<sup>169</sup> She found that, of participants who did not seek legal redress, only seventeen percent cited cost, nine percent cited not knowing where or how to do so, while forty-six percent said they did not see the need.<sup>170</sup>

Our accessibility framework is still valid, however, because, as documented earlier, the help seeking literature has identified a lack of knowledge of legal options as an important barrier for IPV survivors, we have suggestive evidence that cost played a role in our study participants’ use of divorce attorneys, and bankruptcy attorney cost is well-documented as a factor that limits access to the consumer bankruptcy system.<sup>171</sup>

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<sup>166</sup> *The Importance of Doing Nothing*, *supra* note 116, at 126.

<sup>167</sup> Sandefur, *supra* note 9 at 229, 233–35, 244.

<sup>168</sup> *Id.* at 238.

<sup>169</sup> Rebecca L. Sandefur, Am. Bar Found., *Accessing Justice in the Contemporary USA.: Findings from the Community Needs and Services Study 3* (2014).

<sup>170</sup> *Id.* at 12.

<sup>171</sup> *See supra* Section III.A.2.

## 5. Overlapping Frameworks

Finally, many of our data points map equally well onto the help-seeking and disputes-as-construct frameworks. For example, we found that two important reasons why participants did not raise coerced debt in the divorce were fear of further abuse and concern that their ex-husbands would not pay the coerced debt if assigned to him.<sup>172</sup> In help-seeking terms, both responses suggest that divorce was not an acceptable remedy for coerced debt,<sup>173</sup> while in Sandefur's terms, the former falls under the "fear" reason for doing nothing and the latter falls under "frustrated resignation."<sup>174</sup> In addition, many of the divorces in our study were contested, and contested divorce is the one legal procedure Sandefur cites as being prohibitively expensive.<sup>175</sup>

## IV. Legal Relief under Divorce Law

We found that divorce was generally not available as a remedy for participants' coerced debt. The two ways in which divorce can provide relief from coerced debt are: (1) shifting liability to the abusive partner who incurred the debt and (2) compensating the victim of coerced debt with assets to pay it. As a general matter, family courts do not have jurisdiction over creditors and thus cannot alter victims' creditor contracts.<sup>176</sup> Nevertheless, we examined whether divorce decrees shifted responsibility for coerced debt from the participant to the ex-husband who incurred it, because if responsibility is shifted, the participant may seek indemnification from her ex-husband once she pays the debt. Not only was this form of relief unavailable, it also raised significant acceptability concerns. Participant receipt of assets to pay for coerced debt was rarely available as well. Participants did receive significant assets in their divorces, but these assets were not extra amounts to pay for coerced debts, so participants would need to sacrifice other uses of these assets to pay their coerced debts.

We also examined the accessibility of divorce law by gathering data about attorney use and the extent to which cost was a barrier to obtaining an attorney. We found that cost appeared to be a barrier to accessing an attorney.

### A. Shifting Responsibility for Coerced Debt

We found very few instances of divorce decrees shifting responsibility for coerced debt to the ex-husband. Of the ninety women with coerced debt at the time

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<sup>172</sup> See *infra* Section IV.A. and Figure 3.

<sup>173</sup> See *infra* Section IV.A.

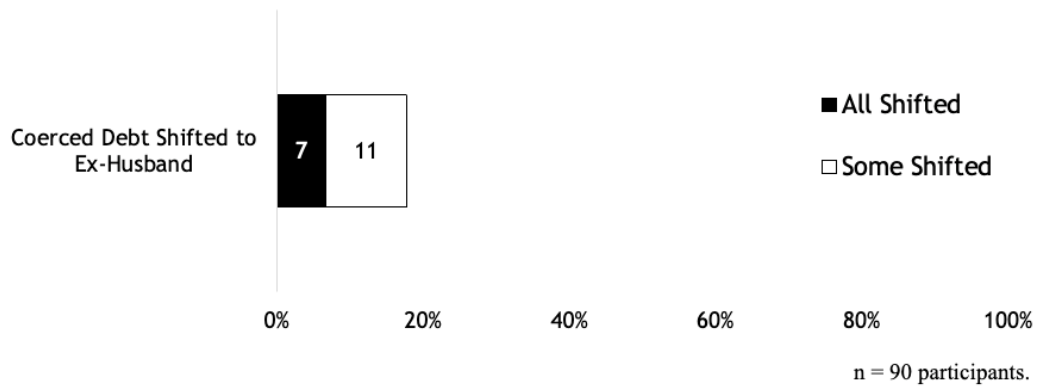
<sup>174</sup> *The Importance of Doing Nothing*, *supra* note 116, at 124-26.

<sup>175</sup> See *supra* note 167 and accompanying text.

<sup>176</sup> *Escaping Battered Credit*, *supra* note 33, at 368.

of the divorce for whom we have data on shifting coerced debt, 82% saw no shift in responsibility for their coerced debt. Another 11% had some of their debts shifted, although never more than half, and 7% had them all shifted. See Figure 2.

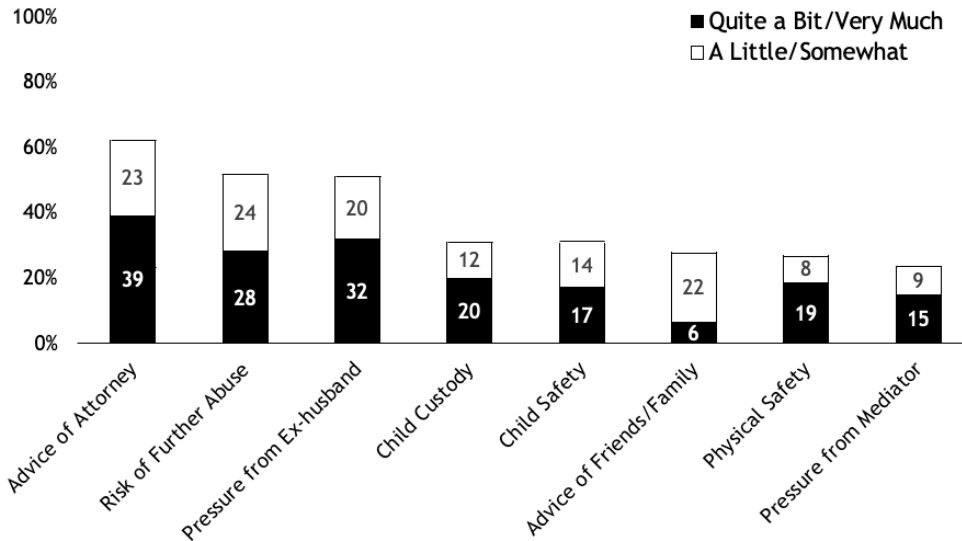
**Figure 2. Coerced Debt Shifted to Ex-Husband in the Divorce**



While these results reflect divorces in only one Texas county, the reasons for the lack of change in responsibility are more likely to be generalizable. Participants rarely raised the issue of coerced debt with their attorneys or the court. Of the 238 accounts with coerced debt at the time of the divorce for which we have data on this point, participants raised the issue of coerced debt only 21% of the time.

Participants had important reasons for not bringing up coerced debt. We asked participants about their reasons for this choice, and of 189 accounts for which participants did not attempt to shift responsibility to their ex-husbands, participants said that they were quite a bit or very much concerned about at least one issue for 130 accounts (69%). For the other fifty-nine accounts (31%), participants did not strongly endorse a concern. Figure 3 shows the specific reasons participants gave for not attempting to shift responsibility to their ex-husbands.

**Figure 3. Concerns Affecting Decision Not to Try Shifting Responsibility to Ex-husband in Divorce**



Note: n = 189 accounts except for options which were inapplicable to large number of participants. n = 100 for child safety and 96 for child custody because many participants did not have children or minor children. n = 82 for advice of attorney and 34 for pressure from a mediator because many participants did not have attorneys and very few had mediators. n = 104 for judge's comments; many participants chose "not applicable" for this item because they did not receive any comments from the judges in their cases.

Participant responses to the concerns in Figure 3 have important implications for the availability and acceptability of divorce as a legal remedy for coerced debt. First, attorney advice was the most common concern affecting participants' decisions not to raise coerced debt as an issue in their divorces, which has two potential implications. To the extent that attorney advice accurately reflected how courts would handle coerced debt, legal change to divorce law could change how victims of coerced debt approach it. Alternately, to the extent that attorney advice reflected attorneys' own opinions, educating divorce attorneys about coerced debt could make a difference. Second, risk of further abuse and pressure from ex-husband were the other two factors about which participants expressed some level of concern more than half the time. Unlike attorney advice, these two factors are internal to the abusive relationship and thus much more difficult for the law to address. Third, the low level of concern about child custody is surprising, because the prior literature has predicted and found that women, particularly those in abusive relationships, often sacrifice financial benefits in

divorce negotiations to lower the risk of losing custody.<sup>177</sup> Fourth, the child safety responses may understate participant concerns about it because the study’s interviewers were mandatory reporters and participants were warned that interviewers would be required to report any mentions of child abuse, including by the participant’s ex-husband, to the appropriate authorities.<sup>178</sup>

The relatively low level of concern about physical safety is interesting considering that 89% of study participants with coerced debt at divorce finalization reported physical abuse by their ex-husbands.<sup>179</sup> Finally, no participant expressed any concern about comments from a judge, which likely reflects that the divorces in our study were finalized from April of 2020 through February of 2021, during the height of the pandemic,<sup>180</sup> when in-person legal hearings were scarce.<sup>181</sup>

There were seventy-one “other” responses, which also have implications for the availability of divorce as a legal remedy. Every participant who offered an “other” reason for an account endorsed it at the “quite a bit” or “very much” level. By far the most common “other” reason was that participants wanted to get the divorce done or “over with.” This concern would be difficult to address with legal reform of divorce law. Texas already has no-fault divorce,<sup>182</sup> but one spouse can

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<sup>177</sup> See, e.g., Susan L. Miller and Jamie L. Manzer, *Safeguarding Children’s Well-Being: Voices From Abused Mothers Navigating Their Relationships and the Civil Courts*, 36 J. INTERPERSONAL VIOLENCE 4545, 4559–63 (2021) (interviewing IPV/A survivors to demonstrate that mothers are often forced to give up financial resources in exchange for custody of their children); Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 44 (1991) (“Women frequently sacrifice financial support they would otherwise be entitled to in order to avoid even the risk of losing custody.”); Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 YALE L.J. 950, 979 (1979) (illustrating how the best interests of the child standard may disadvantage risk-averse parents, particularly mothers, by incentivizing them to forgo financial support in exchange for custody).

<sup>178</sup> TEX. FAM. CODE § 261.101 (2021) (requiring any person with reasonable cause to believe a child’s physical or mental health or welfare has been adversely affected by abuse or neglect to immediately make a report).

<sup>179</sup> *Describing Coerced Debt*, *supra* note 54, at X.

<sup>180</sup> Shannon Sabo & Sandra Johnson, *Pandemic Disrupted Historical Mortality Patterns, Caused Largest Jump in Deaths in 100 Years*, U.S. CENSUS BUREAU (Mar. 24, 2022), <https://www.census.gov/library/stories/2022/03/united-states-deaths-spiked-as-covid-19-continued.html>.

<sup>181</sup> See OFF. OF CT. ADMIN., GUIDANCE FOR ALL COURT PROCEEDINGS DURING COVID-19 PANDEMIC 1–9 (2020), <https://www.txcourts.gov/media/1450221/guidance-for-all-court-proceedings-during-covid-19-pandemic.pdf> (outlining how courts in Texas responded to pandemic-induced courtroom closures).

<sup>182</sup> TEX. FAM. CODE § 6.001 (1997) (“[T]he court may grant a divorce without regard to fault if the marriage has become insupportable . . .”).

drag out the legal proceedings by refusing to agree to terms.<sup>183</sup> Wanting to get the divorce done could also reflect urgency in leaving an abusive relationship.<sup>184</sup> The next most common “other” response was that they knew their ex-husbands would not or could not pay, followed by concerns about their credit ratings if their ex-husbands were awarded the coerced debt in the divorce and failed to pay it. Divorce law could address concern about their ex-husbands not paying by enabling family courts to change the spouses’ contracts with the creditor in cases of coerced debt, but this would be difficult to implement, because it would require giving family courts jurisdiction over the spouses’ creditors.<sup>185</sup> The concern about credit ratings could be addressed by reforming the law of identity theft to include debt by coercion.<sup>186</sup>

The most telling data point suggesting that shifting responsibility for coerced debt is a largely unacceptable remedy is participants’ degree of satisfaction with their decisions about whether to raise it. Participants were significantly more likely to be satisfied with their decision when they did not attempt to shift responsibility to their ex-husbands than when they did. Participants were satisfied with the outcome for more than half of the accounts for which they did not try to shift responsibility, compared to a satisfaction rate of only 40% for accounts for which they did. The dissatisfaction rates point in the same direction. Participants were dissatisfied with the results for 42% of accounts for which they tried to shift responsibility, but only for 23% of accounts for which they did not try. Table 2 shows these results.

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<sup>183</sup> See *How to Set a Contested Final Hearing (Family Law)*, TEXASLAWHELP.ORG (Nov. 27, 2023), <https://texaslawhelp.org/article/how-to-set-a-contested-final-hearing-family-law> (explaining how contested final hearings are complex and require providing the other side with at least forty-five days’ notice).

<sup>184</sup> See Misty L. Heggeness, *When Laws Make Divorce Easier, Research Shows Women Benefit, Outcomes Improve*, U.S. CENSUS BUREAU (Dec. 18, 2019), <https://www.census.gov/library/stories/2019/12/the-upside-of-divorce.html#:~:text=Their%20leisure%20time%20increases%20and,they%20control%20into%20the%20home> (discussing studies that show making divorces easier and quicker helps reduce domestic violence).

<sup>185</sup> *Escaping Battered Credit*, *supra* note 33, at 368–69.

<sup>186</sup> *Id.* at 391–94; Fair Credit Reporting Act (Regulation V): Identity Theft and Coerced Debt, 89 Fed. Reg. 100922 (proposed Dec. 9, 2024) (to be codified at 12 C.F.R. pt. 1022), [https://files.consumerfinance.gov/f/documents/cfpb\\_J208\\_ANPR-FCRA-Regulation-V-Identity-Theft\\_2024-12.pdf](https://files.consumerfinance.gov/f/documents/cfpb_J208_ANPR-FCRA-Regulation-V-Identity-Theft_2024-12.pdf).

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**Table 2. Satisfaction with Decision to Attempt Shifting Responsibility for Coerced Debt to Ex-husband in the Divorce**

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Satisfaction	Attempted to Shift Resp.	Did Not Attempt to Shift
Satisfied	40%	54%
Neutral	18%	23%
Dissatisfied	42%	23%

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Note: n = 238 accounts. Differences significant at  $p < .001$ . Pearson chi-square statistic = 20.225.

Taking these considerations together, one option for increasing the extent to which divorce courts consider coerced debt is to make consideration of it automatic. This would address relationship-specific concerns, such as pressure from the ex-husband, by not requiring participants to bring up coerced debt themselves. A move like this would mirror developments in child and spousal support, which used to be optional, but are now automatically calculated.<sup>187</sup> This prevents parties from sacrificing child and spousal support due to concerns like the ones participants identified. The downside of automatic consideration of coerced debt is that it could have the effect of forcing participants to divulge coerced debt in the divorce, which in our study, was associated with less participant satisfaction. There is also a practical objection. Child and spousal support can be automatically calculated based on the parties' incomes and assets, which are already provided in the divorce. But determining the existence of coerced debt would require in-depth fact finding about the spouses' debts.

#### B. Providing Assets to Pay for Coerced Debt

Because shifting liability in a divorce does not change the victim's contract with the creditor, ordering the party who created the debt to reimburse the survivor for it would be a more effective remedy. We found, however, that this remedy was rarely available. Of the ninety-eight women with coerced debt at the time of the divorce, only one participant's divorce decree ordered her ex-husband to pay it.

Participants could use other assets they received in the divorce to pay down coerced debt. But because the overwhelming majority did not receive additional assets for this purpose, participants would need to sacrifice other uses of their assets to pay coerced debts with them. Divorces do not generate assets; participants largely "received" assets that were already theirs. For example, the standard

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<sup>187</sup> TEX. FAM. CODE § 154.062 (2018) (child support); TEX. FAM. CODE § 8.055 (2011) (amount of maintenance).

language in divorce-decrees forms awards spouses bank accounts that are in their names and life insurance covering their lives.<sup>188</sup> In addition, a division of property in a divorce simply divides the couple's assets between the two spouses, so the assets a spouse "receives" comprise all her assets.

The two exceptions that may constitute new revenue are child and spousal support, which may be comprised of funds to which the recipient did not have access during the marriage, especially in relationships with coerced debt, where the ex-husband may have controlled the family's finances.<sup>189</sup> But child and spousal support may be compensating for deficits in participants' post-divorce budgets. We found that participants' personal incomes at the time of divorce were much lower than their household incomes during the last year of their marriages. Participants with coerced debt at the time of divorce had a median personal gross income of \$30,001 to \$50,000 at divorce. In contrast, the median gross household income during the last year of marriage for this same group of participants was \$90,001 to \$100,000.<sup>190</sup>

Moreover, the assets participants received were insufficient for paying coerced debt. We compared the estimated value of liquid assets participants received to their total amount of coerced debt at the time of the divorce and found that the median amount of leftover coerced debt was \$1,376. Liquid assets included money in bank accounts, investment property as well as child support, spousal support, and cash from the ex-husband. This amount may not seem like much coerced debt, but the assets we subtracted from the amount of coerced debt included money that was paid for other purposes, such as money received from homes the spouses sold or refinanced, which may be necessary to use for downpayments on new homes, and child support. Very few coerced debts in our study were for children's expenses,<sup>191</sup> so child support could not be legitimately used to pay for most coerced debts.

When we subtracted all assets from coerced debt, the median amount of assets participants received was approximately \$7,000 more than the amount of coerced debt they had at the time of the divorce. All assets included the property types in our liquid assets calculation plus equity in homes, vehicles, and valuable household items. This sounds like a positive result, but participants would need to sell or borrow against their homes, vehicles, and household items to pay down

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<sup>188</sup> Final Decree of Divorce, Petitioner and Respondent, Travis Cnty. Civ. Dist. Ct. (2020).

<sup>189</sup> *The Frequency, Nature, and Effects of Coerced Debt*, *supra* note 4, at 1331–32 (finding a significant correlation between an abusive partner's financial control and coerced debt).

<sup>190</sup> Data on file with authors.

<sup>191</sup> *Describing Coerced Debt*, *supra* note 54, at XX tbl.4) (finding that twelve percent of coerced debts were used for children's expenses).

coerced debt with these assets. In addition, 25% of participants had more than \$10,000 of coerced debt remaining after subtracting all assets from it. Table 3 shows the median amount of coerced debt or assets remaining after subtracting liquid assets and all assets from coerced debt at the time of divorce.

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**Table 3. Assets Received Minus Coerced Debt at Time of Divorce**

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Median Liquid Assets Minus Coerced Debt	-\$1,376
Median Total Assets Minus Coerced Debt	\$7,102

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Note: For liquid assets minus coerced debt, n = 84 participants, missing = 14. For total assets minus coerced debt, n = 98 participants, missing = 0. The negative number represents the amount of coerced debt remaining after subtracting assets. The positive number represents the amount of assets participants received beyond the amount of coerced debt they owed at divorce.

In addition to the total coerced debt described in the prior section, the analysis in Table 3 depended on calculating the total amount of assets each participant received in her divorce. We calculated liquid assets separately from total assets because a participant could immediately use liquid assets to pay coerced debt, without needing to sell or borrow against them. As reported here, both asset measures include property received only by the participants who had coerced debt at the time of divorce finalization, because only these participants had coerced debts to input in the calculations in Table 3.

Many participants received significant assets in the divorce. The median for liquid assets is \$6,100. Liquid assets appear to be concentrated among the wealthier participants as evidenced by the mean (\$47,961), which is sensitive to high outliers, being higher than the 75th percentile (\$45,747), which is not.<sup>192</sup> To count as an asset, the participant must have received the asset by the time of the interview. For example, with child and spousal support, we calculated the amounts that their ex-husbands had already paid. We did not include retirement accounts because they are usually not accessible until reaching retirement age.<sup>193</sup> We then subtracted any cash each participant had paid to her ex-husband.

Total assets included all liquid assets plus any equity or deficiency in real estate or vehicles participants received and the value of any valuable household

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<sup>192</sup> See Joe H. Sullivan et al., *So many ways for assessing outliers: What really works and does it matter?*, 132 J. BUS. RSCH. 530, 540 (2021) (“[T]he median is resistant to the presence of extreme values while the mean is sensitive to them.”).

<sup>193</sup> EMP. BENEFITS SEC. ADMIN., DEP’T OF LABOR, WHAT YOU SHOULD KNOW ABOUT YOUR RETIREMENT PLAN 17 tbl.7 (2021), <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/your-retirement-benefits.pdf> (last visited Jan. 2, 2026).

items. We calculated equity in real estate and vehicles by adding the value of all real estate and vehicle relevant participants received in the divorce and subtracting the total balances at time of divorce for all non-coerced mortgages, HELOCs, and vehicle loans. (We subtracted coerced debts of these types in the Table 3 calculation.) Table 4 shows the median liquid and total assets received by participants with coerced debt at the time of divorce.

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**Table 4. Median Value of Net Assets Received, per Participant with Coerced Debt at Divorce**

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Median Net Liquid Assets	\$6,100
Median Net Total Assets	\$14,260

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Note: For net liquid assets, n = 84 participants, missing = 14. For net total assets, n = 98 participants, missing = 0.

### C. Accessibility of Divorce Law

Even if divorce law were more available as a remedy for coerced debt, availability is not helpful if participants face barriers in accessing it. Thus, we examined the extent to which cost was a barrier to legal representation. Almost exactly half of study participants had an attorney – ninety-four participants had one, and ninety-three participants did not. Cost of an attorney appears to have been a factor in whether or not a participant was represented. Table 5 shows a cross-tabulation of the extent to which a participant was concerned about cost and whether or not she had an attorney in the divorce. While the same percentage of represented and unrepresented participants said that they had no concern about the cost of an attorney, the difference between participants with and without divorce attorneys is striking at the level of minor concern versus major concern. Under half of represented participants said that they were “very much” or “quite a bit” concerned, while nearly two-thirds of unrepresented participants reported maximal concern.

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**Table 5. Concern about Cost of Attorney for Divorce by Whether Participant Had a Divorce Attorney (Accessibility of Divorce)**

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	Attorney	No Attorney
Major Cost Concern	41%	65%
Minor Cost Concern	34%	13%
No Cost Concern	22%	22%

Note: n = 185 participants, missing = 2. Differences statistically significant at p = .002. Pearson chi-square statistic = 16.857.

Another indication that cost was a factor in access to an attorney is that there was no significant difference between represented and unrepresented participants in whether or not they reported coerced debt. But, among participants with coerced debt, there was a significant difference between represented and unrepresented participants regarding whether they paid off the coerced debt by the time their divorces were finalized. As shown in Table 6, three-quarters of participants who used a divorce attorney had unpaid coerced debt at the time of divorce, whereas more than 90% of unrepresented participants had unpaid coerced debt at that time. An alternative explanation for this finding is that participants with attorneys were more likely to pay off their coerced debts before divorce finalization because their attorneys advised them to do so. This explanation does not completely negate the cost concern, however, because attorney advice to pay off debt would not matter if the participant could not afford the debt payments.

**Table 6. Percent of Participants with Coerced Debt & Unpaid Coerced Debt at Divorce by Representation in Divorce**

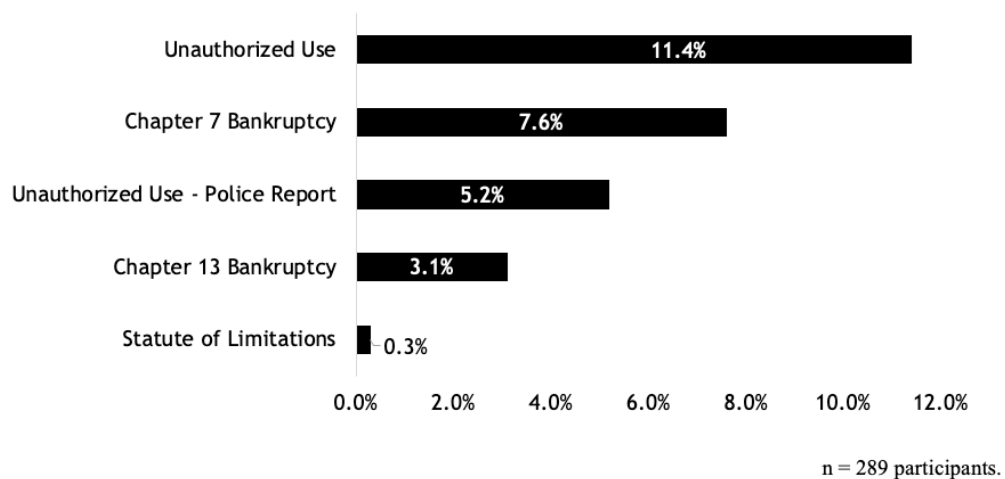
	Attorney	No Attorney
Coerced Debt	59%	66%
No Coerced Debt	39%	34%
Unpaid Coerced Debt at Divorce	75%	93%
Paid Off Coerced Debt by Divorce	26%	7%

Note: For coerced debt rows, n = 187 participants. For unpaid at divorce rows, n = 116 participants. Differences in representation for coerced debt are not statistically significant. p = .318. Chi-square statistic = .995. Differences in representation for unpaid coerced debt at divorce are statistically significant at p = .005. Chi-square statistic = 7.879.

## V. Legal Relief under Debtor-Creditor Law

Our findings suggest that the options for legal relief under debtor-creditor law are largely ineffective for addressing participants' coerced debt. To be effective, an option had to be available, accessible, and acceptable for a given coerced debt. As Figure 4 shows, that was rarely the case. Of the 289 coerced debts that were outstanding at the time of the divorce, effectiveness rates for these laws range from 11% to .03%.

**Figure 4. Effectiveness of Legal Relief for Debtor-Creditor Law**



The details of this effectiveness analysis reveal the weaknesses of each option for legal relief. Unauthorized use and the statute of limitations failed at the availability level because they are narrow remedies. Unauthorized use is narrow in that it applies only to credit cards or debit cards and only to fraud.<sup>194</sup> The statute of limitations applies to all types of accounts but requires a debtor to refrain from paying on it for four years, which can result in negative effects such as debt collection and damage to credit scores. Bankruptcy, in contrast, was largely available, but it was only moderately accessible in that participants felt that they

<sup>194</sup> See TILA, *supra* note 58, § 1643(a) (limiting consumer liability for unauthorized credit card charges to fifty dollars); EFTA, *supra* note 59 § 1693g(a) (capping liability at \$500 if a consumer discovers the fraud within sixty days but allowing unlimited liability if a consumer does not discover the fraud within that window).

would have difficulty affording an attorney. And bankruptcy was highly unacceptable; very few participants were willing to use it.

#### A. Available Legal Relief

Availability is the baseline measure of effectiveness because, if a form of legal relief is not available to address a problem, the legal option's accessibility and acceptability are irrelevant. Thus, we consider availability under debtor-creditor law first.

##### 1. Unauthorized Use

Fraudulent coerced debt is a form of identity theft,<sup>195</sup> and fraudulent credit card debt has strong protection under the unauthorized use provision of the Truth in Lending Act (TILA).<sup>196</sup> But unauthorized use law was frequently unavailable. We coded unauthorized use law as being definitely available for an account if it was a fraudulent credit card debt and potentially available if it was a coerced credit card debt in which the participant feared physical harm to herself or her loved ones. We developed the "potentially available" category based on conversations with attorneys who said that they could bring unauthorized use cases for accounts with coercive transactions only when the coercion resulted from physical abuse and the judge was sympathetic. Debit cards also have unauthorized use protection, although it is much more limited than that for credit cards,<sup>197</sup> but we did not find any debit card debt, for example from overdraft charges, in this study.<sup>198</sup> We considered unauthorized use law to be unavailable for coercive credit card transactions in which the threatened consequences did not include physical abuse, manipulated credit card transactions, and all other coerced debts. Figure 5, below, presents the availability analysis for unauthorized use and the other debtor-creditor laws.

The low rate of availability of unauthorized use law can be explained by the distribution of account types and fraudulent transactions. Although more than half of the coerced debts outstanding at the time of divorce were credit cards (56%), of

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<sup>195</sup> A few states have recently passed laws making debt via coercion a form of identity theft. *See, e.g.*, TEX. PEN. CODE § 32.51 (2019); TEX. BUS. & COM. CODE § 521.051 (2021). But federal identity-theft law still covers only debt created via fraud. For example, to remove a debt created by identity theft from one's credit report under the Fair Credit Reporting Act, a consumer must provide "a statement by the consumer that the information is not information relating to any transaction by the consumer." 15 U.S.C. § 1681c-2(a)(4). A consumer who incurred debt via coercion was involved in the debt's creation and thus would not be able to make such a certification.

<sup>196</sup> TILA, *supra* note 58.

<sup>197</sup> EFTA, *supra* note 59.

<sup>198</sup> Some participants told us that the debt from non-HELOC lines of credit reported on their credit reports were actually debit card debt, but these comments were not consistent enough for us to change lines of credit debt to debit card debt.

the credit card accounts, fewer than half of coerced credit card debts had transactions generated via fraud (38%). The “potentially available” category has fewer accounts than the definite category because only a little over one-fourth (27%) of credit card coerced debts with balances at the time of divorce had coercive transactions in which the threat the participant feared was physical harm, and some of those debts also had fraudulent transactions, which put them in the definite category.

## 2. Statute of Limitations

Unlike unauthorized use law, the availability of the statute of limitations does not depend on the fraudulent or coerced nature of the debt. Rather, it can apply to all debts. It is also a defense rather than a remedy and so it technically available only if a consumer is sued, a relatively unlikely scenario, especially in Texas,<sup>199</sup> which does not allow wage garnishment for general unsecured debts.<sup>200</sup> We included it, however, because consumers who know of the statute of limitations can use it to push back in the more common scenario in which debt collectors are dunning them.<sup>201</sup>

In Texas, the statute of limitation for debts is four years from the opening of the account, payment, or purchase, whichever occurred most recently.<sup>202</sup> The statute of limitations was rarely available. Of the 279 coerced debts that were outstanding at the time of the participant’s divorce for which we have data on this point, only slightly over 4% were eligible for relief. It is not surprising that the statute of limitations was available for so few accounts, because stopping payment on debts would hurt participants’ credit scores.<sup>203</sup>

## 3. Bankruptcy

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<sup>199</sup> In 2012, Texas had 2.9 civil judgments per 1,000 people, while the national rate was 18.47 per 1,000 people in 2008 before steadily declining to 8.60 by 2016. Scott L. Fulford & Éva Nagypál, *Using the courts for private debt collection: How wage garnishment laws affect civil judgments and access to credit* 16 fig.3, 21 fig.9 (Consumer Fin. Prot. Bureau Off. of Rsch., Working Paper No. 23-02, 2023).

<sup>200</sup> TEX. CONST. art. 16, § 28; TEX. CIV. PRAC. & REM. CODE § 63.004 (1997). See Fulford & Nagypál, *supra* note 199, at 3–5 (finding that states with stricter wage garnishment laws have more debt-collection lawsuits).

<sup>201</sup> Joe Hernandez, *Debt collectors can now text, email and DM you on social media*, NPR (Dec. 2, 2021, 6:00 AM), <https://www.npr.org/2021/12/02/1060597759/debt-collectors-can-now-text-email-and-dm-you-on-social-media>.

<sup>202</sup> TEX. CIV. PRAC. & REM. CODE § 16.004(a)(3) (1999).

<sup>203</sup> *What's in myFICO Scores?*, MYFICO, <https://www.myfico.com/credit-education/whats-in-your-credit-score> (last visited Jan. 2, 2026) (showing payment history as the most significant factor accounting for 35% of a consumer's credit score).

Bankruptcy was the only type of debtor-creditor relief widely available for the 289 coerced debts with a balance at the time of divorce. Nearly 80% of these coerced debts were eligible for discharge. Because discharge is the main relief that consumer bankruptcy provides,<sup>204</sup> we considered bankruptcy to be definitely available for dischargeable debts.

Because we analyzed bankruptcy indirectly,<sup>205</sup> we followed the legal treatment bankruptcy provides for each type of debt. We considered all unsecured debts except for student loans and unpaid taxes to be dischargeable because a chapter 7 case would not impose any limits on their discharge,<sup>206</sup> and they are likely to remain unpaid in a chapter 13 case.<sup>207</sup> In contrast, bankruptcy does not discharge liens,<sup>208</sup> which means that a participant cannot keep the collateral secured by a debt without paying the debt. So, we counted secured debts as dischargeable only if the participant had relinquished the collateral before the interview or planned to relinquish the property soon. Unsecured debts other than student loans and unpaid taxes as well as secured debts for which participants were not keeping the property comprised 78% of the relevant accounts, making most outstanding coerced debts dischargeable and thus making bankruptcy definitely available for these accounts.<sup>209</sup> The remaining 22% of coerced debts with balances at the time of the divorce were non-dischargeable student loans, unpaid taxes, and secured debts for which the participant planned to keep the property. Even though bankruptcy does not discharge liens, it can provide other help for secured debts if the debtor has equity in the associated property, so we counted bankruptcy as potentially available for secured debts for which the participant had equity, as explained below. Figure 5 shows the results of the availability analysis for all three debtor-creditor laws.

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<sup>204</sup> 11 U.S.C. § 727(a) (chapter 7 discharge provision); 11 U.S.C. § 1328(a) (chapter 13 discharge provision).

<sup>205</sup> See *supra* notes 8-9 and accompanying text.

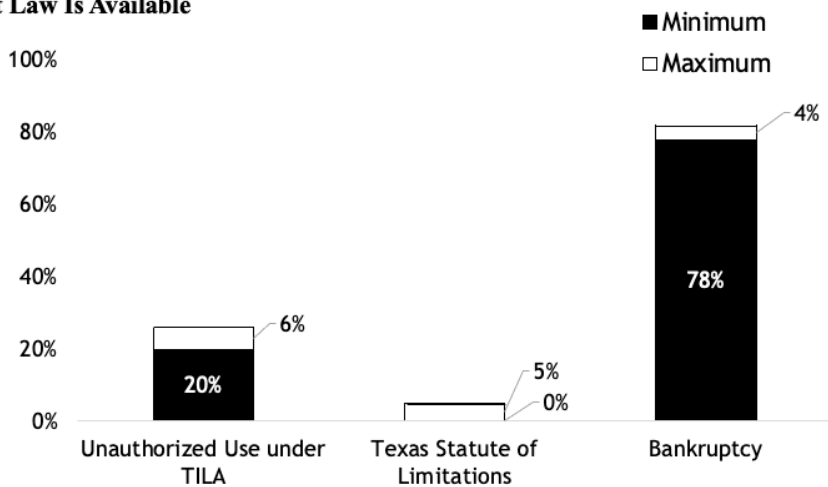
<sup>206</sup> 11 U.S.C. § 727(a) (discharging the personal liability of the debtor).

<sup>207</sup> Scott F. Norberg & Andrew J. Velkey, *Debtor Discharge and Creditor Repayment in Chapter 13*, 39 CREIGHTON L. REV. 373, 543 (2006) (“The median amount of unsecured debt repaid by debtors was \$0. . .”).

<sup>208</sup> 11 U.S.C. § 524(j)(3) (preserving the *in rem* liability of the debtor).

<sup>209</sup> The exception is if a debt meets one of the grounds for non-dischargeability in 11 U.S.C. § 523. We did not have the space in our interviews to ask about each item in that section, but a key analysis of another article from this study is evaluating whether coerced debts in this study would be blocked from discharge because of a partner’s fraud under § 523(a)(2). Angela Littwin et al., *supra* note 65.

**Figure 5. Percentage of Coerced Debts at Divorce for Which Relief under Debtor-Credit Law Is Available**



n = 289 accounts, although 10 are missing for statute of limitations and 15 are missing for bankruptcy. For unauthorized use and bankruptcy, the “minimum” percentage is the percent of accounts that for which relief was definitely available, and the maximum includes the accounts for which relief was only potentially available. The statute of limitations had no “potentially available” category, so all accounts for which it was available fall into the “maximum” group.

The following paragraphs provide detailed explanations for how we handled each type of debt.

*Taxes:*

We counted the one unpaid tax debt that had a balance as of divorce finalization as non-dischargeable because it was a tax penalty that arose because the participant’s ex-husband failed to file a tax return. All participants lived in Texas, and the Fifth Circuit has case law stating that taxes are non-dischargeable if the return was filed at all late.<sup>210</sup> So, the ex-husband's failure to file the return would make the tax penalty non-dischargeable.

*Student Loans:*

We categorized student loans separately from other unsecured debts, because they are dischargeable only if their payment represents an “undue hardship” to the debtor or her dependents.<sup>211</sup> All participants were divorced in

<sup>210</sup> *In re McCoy*, 666 F.3d 924, 932 (5th Cir. 2012) (holding that a late-filed state income tax return is not a “return” for bankruptcy discharge purposes).

<sup>211</sup> 11 U.S.C. § 523(a)(8).

Texas, so we applied the law of the Court of Appeals for the Fifth Circuit, which has adopted the *Brunner* test.<sup>212</sup> For each coerced student loan debt, we asked participants questions to determine whether they met the first two prongs of *Brunner* and analyzed their credit reports to determine whether they met the third prong.

*Brunner*'s first prong asks whether the debtor can afford a minimal standard of living while paying her student loans. The reason for not being able to afford a minimal standard of living must not be the debtor's fault,<sup>213</sup> so we asked: "Do you have a health issue or disability that keeps you from earning enough money to pay your student loans while also paying for basic expenses like food, housing, and medical care?" We asked an analogous question about "caring for someone with a health issue or disability." To pass the first prong, a participant needed to answer "yes" to one of these two questions.

*Brunner*'s second prong requires that the condition is likely to persist through a significant portion of the repayment period. Thus, we asked participants who met *Brunner*'s first prong: "Is this health issue or disability likely to prevent you from paying your student loan for a significant portion of the loan's repayment period?" as well as an analogous question about caring for someone with a health issue or disability.<sup>214</sup> The Fifth Circuit's interpretation of *Brunner*'s second prong also requires that the reason for the inability to repay not have existed at the time the debtor incurred the student loan debt,<sup>215</sup> so we asked, "At the time this student loan account was opened, did this health issue or disability prevent you from earning enough money to pay for basic expenses like food, housing, and medical care?" along with the parallel question about caring for someone with a health issue or disability. To pass the second prong of *Brunner*, a participant had to answer "yes" to one of the "significant portion of the repayment period" questions and "no" to one of the questions about the time the student loan was opened. Of the seventy coerced student loans that had balances at the time of the divorce, only three met the first two prongs of *Brunner*.

*Brunner*'s third prong asks whether the debtor has made a good faith effort to repay the loan,<sup>216</sup> so we examined participants' repayment history on their credit reports to answer this question. Data collection took place during the first year of the pandemic, during which federal student loans were under a repayment

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<sup>212</sup> See *In re Gerhardt*, 348 F.3d 89 (5th Cir. 2003) (adopting *Brunner v. New York State Dep't of Higher Educ. Servs. Corp.*, 831 F.2d 395 (2d Cir. 1987)).

<sup>213</sup> See *Thomas v. Dep't of Educ.*, 931 F.3d 449, 451 (5th Cir. 2019).

<sup>214</sup> See *id.* at 453.

<sup>215</sup> *In re McCoy*, 810 F. App'x 315, 316–17 (5th Cir. 2020).

<sup>216</sup> See *Thomas*, 931 F.3d at 451.

moratorium,<sup>217</sup> and all three student loans that met the first two prongs of *Brunner* were federal. But looking back further in their repayment histories, all three were in good standing throughout their reported payment histories, so we counted them as meeting *Brunner's* third prong.

In sum, we counted three of the seventy relevant coerced student loans as being dischargeable, although that may be an overcount. We did not scrutinize the legitimacy of the health condition of the participant who held all three of these loans, as a court in the Fifth Circuit would. We also did not analyze whether there was any type of work the participant could perform, as the Fifth Circuit did in *Thomas*, when it upheld a denial of discharge because the debtor could perform sedentary work, even though the debtor had not been able to obtain such work in the past three years.<sup>218</sup> Given that the bankruptcy judge in *Thomas* stated that, “in fifteen years on the bench, the undersigned judge has never discharged a student loan over the objection of the lender,”<sup>219</sup> one could argue that student loans are not dischargeable in the Fifth Circuit and count all seventy coerced student loans as such.

#### *Secured Debt:*

Although we treated all secured debts for which the debtor planned to keep the collateral as non-dischargeable, we did examine whether bankruptcy could be helpful for secured debts, because debtors can keep secured property in both major consumer chapters, chapter 7 and chapter 13.<sup>220</sup>

The methods for keeping encumbered homes and vehicles that are still widely available after the punitive bankruptcy reform of 2005<sup>221</sup> are burdensome enough that the conventional wisdom is that consumers should only keep homes and vehicles in which they have equity,<sup>222</sup> meaning that the collateral is worth more

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<sup>217</sup> See *COVID-19 Emergency Relief and Federal Student Aid*, FEDERAL STUDENT AID, <https://studentaid.gov/announcements-events/covid-19> (last visited Nov. 8, 2024) (announcing the end of emergency federal student loan relief).

<sup>218</sup> *Thomas*, 931 F.3d at 452–53.

<sup>219</sup> *Id.* at 451.

<sup>220</sup> 11 U.S.C. § 727(a). See Paul Kiel and Hannah Fresques, *Data Analysis: Bankruptcy and Race in America*, PROPUBLICA (Sept. 27, 2017), <https://projects.propublica.org/graphics/bankruptcy-data-analysis> (finding that 95% of nonbusiness chapter 7 debtors who filed had no distributable assets). In chapter 13, debtors keep their property in exchange for repaying their debts with all their disposable income for three to five years. 11 U.S.C. § 1325(b)(1)(B) (disposable income); 11 U.S.C. § 1325 (b)(4) (applicable commitment period).

<sup>221</sup> Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (2005).

<sup>222</sup> John Rao, *Deciding Whether to File for Bankruptcy: Consumer Debt Advice from NCLC*, NAT. CONSUMER L. CTR. (Sept. 18, 2018), <https://library.nclc.org/article/deciding-whether-file-bankruptcy-consumer-debt-advice-nclc>.

than the balance of the loan. All participants with mortgaged real estate for whom we had data on this point had equity in their property,<sup>223</sup> and moreover, a recent study found that the bleak conventional wisdom about real estate loans may be incorrect, at least in chapter 7.<sup>224</sup> Thus, we counted bankruptcy as “potentially available” for all real estate coerced debts in the study.

For vehicle loans, debtors really do have poor choices. In chapter 13, a debtor must pay the full amount owed on most encumbered vehicles, even if the loan is significantly under-secured, meaning that the debtor owes more on the loan than the property is worth.<sup>225</sup> In chapter 7, a consumer may redeem her under-secured vehicle by paying only the amount that the vehicle is worth.<sup>226</sup> The problem is that the debtor must pay up front. Few debtors in bankruptcy have substantial cash resources,<sup>227</sup> and there appears to be only one major lender which offers loans for debtors seeking to redeem their vehicles.<sup>228</sup> So, most chapter 7 debtors keeping vehicles must reaffirm<sup>229</sup> their personal liability, which otherwise would have been discharged, and pay the entire balance owed. Lenders may and do insist on being paid in full, even if the collateral is worth less than the balance on the loan.<sup>230</sup>

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<sup>223</sup> Bankruptcy prevents homeowners from writing down under-secured loans. 11 U.S.C. § 1322(b)(2); *Nobelman v. Am. Sav. Bank*, 508 U.S. 324, 332 (1993) (holding that a chapter 13 plan may not modify the rights of a creditor holding a claim secured only by the debtor's principal residence). Although a few study participants did own business real estate, the overwhelming majority of real estate loans in our study were on primary residences. But because all participants with encumbered real estate had equity in their real estate, their inability to write down under-secured loans is irrelevant. Data on file with authors.

<sup>224</sup> Belisa Pang, *Invisible Mortgages in Bankruptcy*, JOUR. OF LAW & ECON. 14–17 (forthcoming), <http://dx.doi.org/10.2139/ssrn.4939831> (finding that most chapter 7 debtors with mortgages appear to keep their homes through bankruptcy, despite most debtors not reaffirming their personal liability on these debts).

<sup>225</sup> In 2005, BAPCPA amended chapter 13 by adding the “hanging paragraph,” which prohibits lien stripping for encumbered vehicles purchased within 2.5 years of the bankruptcy filing, making chapter 13 significantly less useful for under-secured vehicles. 11 U.S.C. § 1325(a)(5)(\*). Instead, a debtor must pay the entire balance owed to keep an encumbered vehicle, even if the vehicle is worth much less than the balance. Most vehicle loans that default do so early in the repayment period, so the hanging paragraph covers most vehicle loans in chapter 13. See Katherine Porter, *The Pretend Solution: An Empirical Study of Bankruptcy Outcomes*, 90 TEX. L. REV. 103, 148 (2011) (interviewing debtors who did not receive a discharge and finding that they rarely retained their cars after filing Chapter 13).

<sup>226</sup> 11 U.S.C. § 722.

<sup>227</sup> See, e.g., ELIZABETH WARREN ET AL., THE LAW OF DEBTORS AND CREDITORS: TEXT, CASES, AND PROBLEMS 174 (N.Y.: Aspen ed., 8th ed. 2020) (comparing the likelihood of a debtor having cash to pay upfront for a vehicle to the likelihood of running a three-minute mile).

<sup>228</sup> *What is Redemption?* 722 REDEMPTION, <https://722redemption.com/> (last visited Nov. 8, 2024).

<sup>229</sup> 11 U.S.C. § 524(c).

<sup>230</sup> See, e.g., *In re Pendlebury*, 94 B.R. 120 (Bankr. E.D. Pa. 1988); 11 U.S.C. § 362(h)(1)(B) (providing that personal property subject to a security interest is no longer be property of the estate

Experts generally recommend that debtors reaffirm only when they have equity in their property, and the judges and consumer bankruptcy attorneys who serve as gatekeepers for reaffirmation often refuse to certify reaffirmations unless debtors have equity.<sup>231</sup> Thus, we counted bankruptcy as potentially available for encumbered vehicles in which the debtors had equity and as unavailable for vehicles that were underwater.

We coded an additional account as not applicable because the participant had just sold the property for substantial cash beyond her mortgage, making bankruptcy a detriment rather than a help for her finances.<sup>232</sup>

We also counted bankruptcy as potentially available for debts secured by property other than homes or vehicles, including rental center debt, because most of these loans were secured by household goods, such as furniture or major appliances. Consumers are more likely to have the lower amounts of cash necessary to redeem these items for their value in chapter 7, and the chapter 13 prohibitions on writing down under-secured loans to the value of the property apply largely to homes and vehicles.<sup>233</sup> There were only six coerced debts for property other than homes and vehicles outstanding at the time of divorce.

The result was we coded bankruptcy as unavailable for a little over seventeen percent of coerced debts outstanding at the time of the divorce and potentially available for four percent. See Figure 5, above.

## B. Accessible Legal Relief

Accessibility is the next component of effective legal relief, because an available legal option is not helpful if help seekers are stymied by barriers. We examined two potential barriers. The first was awareness, because people who do not know of an option for legal relief cannot use it. The second was cost, because being unable to afford an attorney can put legal relief out of reach. The only law

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if the debtor does not redeem or reaffirm unless the debtor intends to reaffirm and the creditor refuses to do so on the original contract terms).

<sup>231</sup> See, e.g., ELIZABETH WARREN ET AL., *supra* note 227, at 180.

<sup>232</sup> A consumer with substantial cash would not file for bankruptcy because she would not need bankruptcy and she would need to pay most, if not all, of that cash to her unsecured creditor in either consumer bankruptcy chapter.

<sup>233</sup> 11 U.S.C. §§ 1322(b)(2), 1325(a)(5)(\*) (prohibiting lien stripping on under-secured home loans and most vehicle loans but allowing it for other secured property unless it was purchased within a year of the bankruptcy filing).

for which we had attorney fee data was bankruptcy, so our affordability analysis is limited to it.

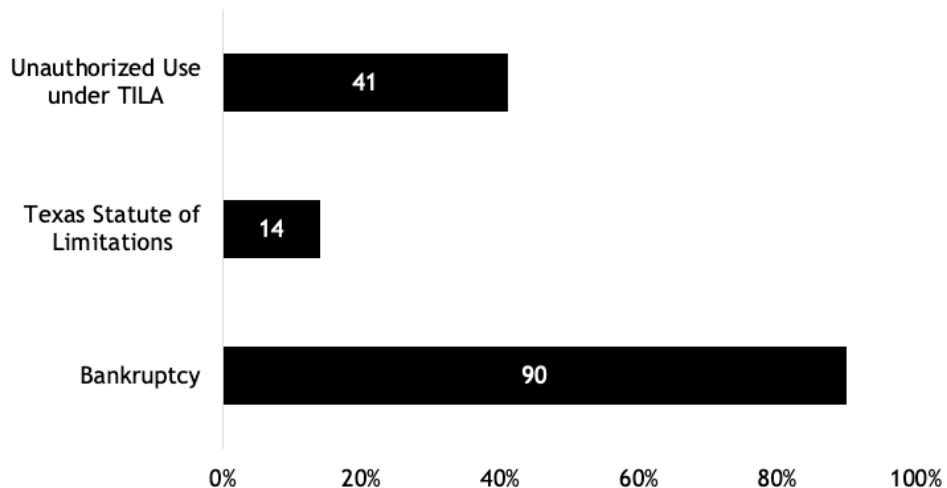
### 1. Unauthorized Use & Statute of Limitations

Most participants were unaware of unauthorized use law and the statute of limitations. Of participants with coerced debt at the time of divorce finalization, less than half (41%) were aware of unauthorized use law, compared to 59% who were not. Awareness of the statute of limitations was even lower. Only 14% of participants with coerced debt at the time of divorce were aware of the statute of limitations, while 86% were not.

### 2. Bankruptcy

In contrast, participants were very aware of bankruptcy law, at least in a general sense. Approximately 90% of participants were aware that filing bankruptcy could erase some debts. Only 10% were not aware of this fact. Figure 6 provides the percentages of participants who were aware of each legal option under debtor-creditor law.

**Figure 6. Awareness of Relief under Debtor-Credit Law, Percentage of Participants with Coerced Debt at Divorce (Accessibility of Debtor-Creditor Law)**



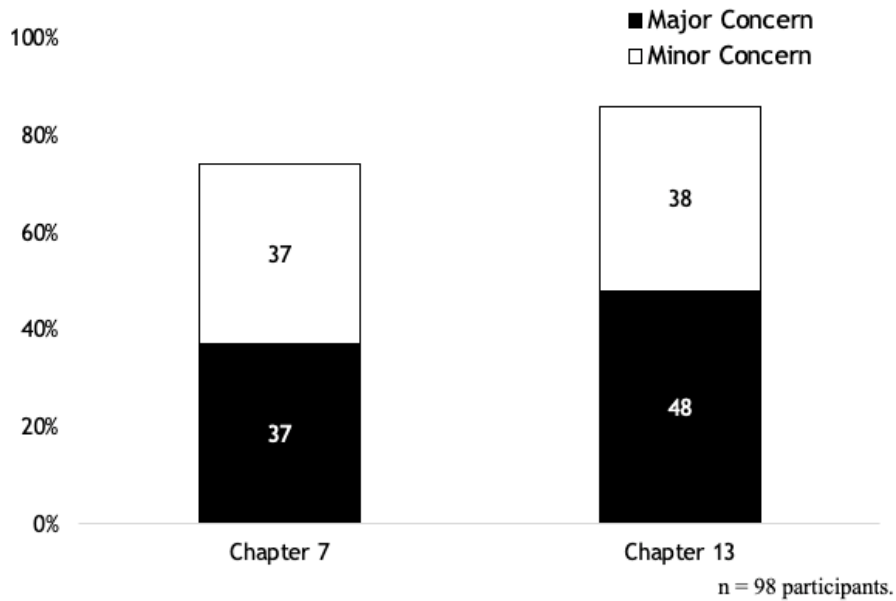
n = 98 participants.

On the other hand, bankruptcy appeared less accessible from the perspective of participants' ability to afford bankruptcy attorneys, who are essential to accessing the bankruptcy system. Since the 2005 bankruptcy reform, it has been very difficult for consumers to navigate the bankruptcy system successfully without

an attorney.<sup>234</sup> Thus, we asked participants with coerced debts at the time of divorce finalization if cost would affect their decision to hire a bankruptcy attorney at the current median cost for chapter 7 attorneys in Texas (\$1,550 to \$1,850) if they had to pay up front. Thirty-seven percent answered, “quite a bit” or “very much,” which we classified as having major concerns. We also asked about the effect of the cost of the median chapter 13 fee (\$3,600 to \$3,700) but stated that they could pay it over time. Forty-nine percent said that cost would have a major effect on their ability to hire bankruptcy attorneys for chapter 13.<sup>235</sup> We counted answers of “a little” or “somewhat” as participants having minor concerns.

Overall, bankruptcy was fairly unaffordable for study participants. More than one-third of participants had major concerns about affording chapter 7 attorneys, and nearly one-half were similarly concerned about chapter 13 attorney fees. Less than one-fourth had no concerns about chapter 7 fees, and only 11% had no concerns regarding chapter 13. Figure 7 provides the affordability results for both bankruptcy chapters.

**Figure 7. Concern about Bankruptcy Attorney Fees, Percentage of Participants with Coerced Debt at Divorce (Accessibility of Bankruptcy)**



### C. Acceptable Legal Relief

<sup>234</sup> See, e.g., *Low-Income, Low-Asset Debtors*, *supra* note 99, at S117.

<sup>235</sup> Median attorney fees in Texas are from the Consumer Bankruptcy Project’s unpublished data.

Even if an option for legal relief is available and accessible, it is not effective if help seekers are unwilling to use it because it violates their values or beliefs. In the literature, acceptability concerns can arise from factors such as a lack of cultural competence, stigma, or system actors treating help seekers poorly.<sup>236</sup> We did not have time in our interviews to investigate the reasons for participants' degree of willingness to use the legal options under debtor-creditor law, although for unauthorized use, participants' answers to our questions made one concern clear, and we have informed speculations for the statute of limitations and bankruptcy.

### 1. Unauthorized Use

At first glance, unauthorized use law appeared to be very acceptable. Nearly two-thirds of participants with coerced debts at the time of divorce (63%) said that they were "quite" or "extremely" willing to ask their credit card issuers or banks to cancel fraudulent credit-card or debit-card debt.<sup>237</sup> But upon closer examination, the picture becomes less positive. The law allows creditors to require police reports to substantiate identity theft,<sup>238</sup> and anecdotal evidence suggests that they do.<sup>239</sup> Thus, we asked first about the extent to which participants were willing to ask their credit card companies or banks to cancel fraudulent debt.<sup>240</sup> Next, we asked how willing they would be to obtain a police report if their credit card company or bank required one.<sup>241</sup> The extent to which participants were very willing to use unauthorized use law declined significantly, to 34%, once we stated that doing so may require obtaining a police report. The percentage of participants who gave responses of "a little" or "somewhat" also declined once we mentioned the police report, from 25% to 18%. These drops in the acceptability of unauthorized use law were statistically significant. See Figure 7, below.

Beyond the decline in acceptability when a police report is required, there is also a concern about the lack of availability of police reports. Even to the extent that participants were willing, victims of fraudulent coerced debt report difficulties

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<sup>236</sup> See, e.g., Booth & McLaughlin, *supra* note 101, at 1267–75; Holland & Cortina, *supra* note 80, at 50–64; HOW WOMEN RESPOND, *supra* note 102, at 225–32; *Barriers to Services*, *supra* note 77, at 591–616; *Questions and Conundrums*, *supra* note 67, at 175–205; Nnawulezi & Sullivan, *supra* note 100, at 563–91.

<sup>237</sup> We asked whether participants would be willing to ask their credit card companies to remove the debt, even though the ultimate remedy for unauthorized use can be a lawsuit, because asking one's credit card company is the first step and likely to present fewer barriers than filing a lawsuit.

<sup>238</sup> 16 C.F.R. § 603.3(a)(3).

<sup>239</sup> See, e.g., *Schatten v. Sallie Mae, Inc.*, No. 08-0322, 2009 U.S. Dist. LEXIS 42801, at \*6 (N.D. Ga. Mar. 4, 2009) (noting that Sallie Mae's ID Theft Affidavit requires the consumer to submit a police report).

<sup>240</sup> See *infra* Appendix B.

<sup>241</sup> See *infra* Appendix B.

obtaining police reports due to the intimate nature of their relationship with the abusive partner.<sup>242</sup>

## 2. Statute of Limitations

Participants with coerced debt at the time of divorce were generally willing to use the statute of limitations to eliminate liability for an involuntary debt. When asked about a debt that they did not incur themselves, the plurality of participants with coerced debt, 45%, said that they would be “quite” or “extremely” willing to stop paying a debt for four years to use the statute of limitations. We found the high degree of willingness to use the statute of limitations surprising because not paying coerced debts for four years would probably cause major damage to participant credit scores.<sup>243</sup> On the other hand, this result could reflect that all participants lived in Texas, which does not have wage garnishment for general unsecured debt.<sup>244</sup> If participants had to fear wage garnishment, that would probably lower their willingness to stop paying debts for four years to the use the statute of limitations.

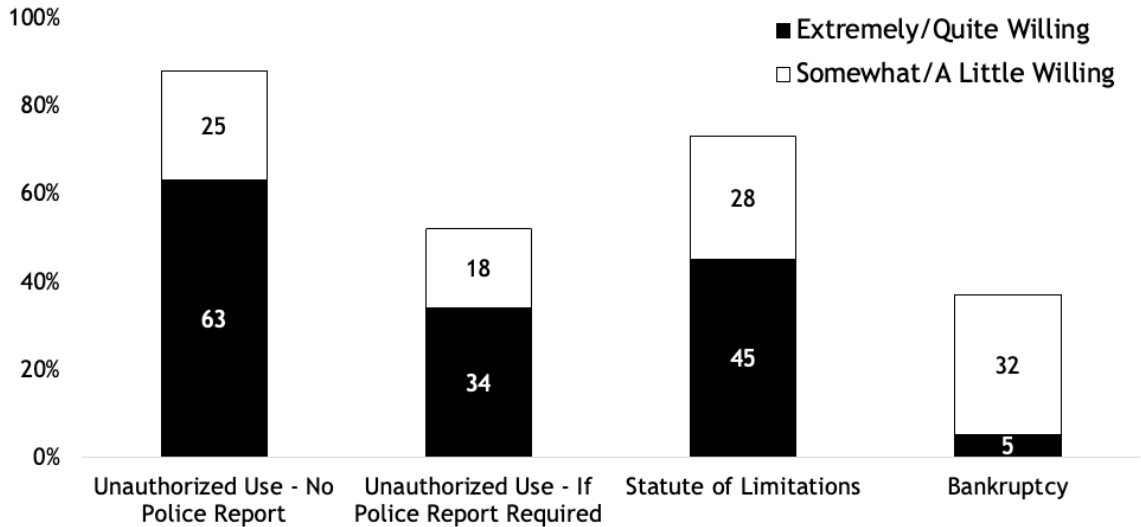
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<sup>242</sup> In our work with attorneys and advocates who serve victims of coerced debt, difficulty obtaining police reports is a constant refrain.

<sup>243</sup> *What's in my FICO Scores?*, *supra* note 203.

<sup>244</sup> See sources cited *supra* note 200.

**Figure 8. Willingness to Use Debtor-Creditor Law, Percentage of Participants with Coerced Debt at Divorce (Acceptability of Debtor-Creditor Law)**



n = 98 participants. Differences between no police report and police report willingness to use unauthorized use law statistically significant at  $p < .001$ . Pearson chi-square statistic=38.937.

### 3. Bankruptcy

In contrast, bankruptcy law fared poorly on acceptability. When we asked how willing participants with coerced debt outstanding at divorce finalization would be to file for bankruptcy, more than 60% said, “not at all,” while only 5% of participants were “quite” or “extremely” willing.

The study itself, however, may have influenced the low bankruptcy willingness. One potential reason is that most participants did not need bankruptcy. However, when we compared willingness ratings across income, total amount of coerced debt, and amount of coerced debt outstanding at the time of divorce, we found no relationship in any of the three analyses.

A second potential study-related explanation of our bankruptcy willingness results is that all participants had just completed another stressful and potentially expensive legal procedure, divorce from an abusive husband. We had two measures that can serve as proxies for the extent to which a participant’s divorce was stressful and expensive: length of the divorce proceeding and number of documents filed in the divorce case. We also found no relationship between bankruptcy willingness and either of these measures.

A third potential reason is the Texas prohibition on wage garnishment for general unsecured debts.<sup>245</sup> If participants with overdue debts were being garnished, they might have expressed more willingness to consider bankruptcy. Indeed, prior research has found that wage-garnishment protections are inversely correlated with bankruptcy filings.<sup>246</sup>

## VI. Conclusion

Because the current legal relief for coerced debt is largely ineffective, the next question is what remedy would be helpful. Advocates, attorneys, and researchers working on this issue have converged on the proposal to make debt via coercion a form of identity theft,<sup>247</sup> which would enable victims to block these debts from their credit reports.<sup>248</sup> One of us proposed a version of this remedy in a law review article more than a decade ago,<sup>249</sup> but it is only more recently that it has become a feasible option. In 2019 and 2021, Texas passed two laws including debt generated by coercion as a form of identity theft, first in its Penal Code<sup>250</sup> and then in its Business & Commerce Code.<sup>251</sup> But it is unclear whether state law can enable the removal of debts from credit reports, which is governed by federal law under the Fair Credit Reporting Act.<sup>252</sup> In the waning days of the Biden Administration, the Consumer Financial Protection Bureau issued an advanced notice of proposed rule making for a rule that would include debt by coercion in the definition of identity theft for survivors of domestic violence, elder abuse, and other types of financial abuse.<sup>253</sup> But it seems very unlikely that the Trump Administration will continue this rule making process. In the meantime, efforts to address coerced debt will likely shift to proposing state laws that prohibit collection of at least unsecured coerced debts.<sup>254</sup>

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<sup>245</sup> See sources cited *supra* note 200.

<sup>246</sup> See Fulford & Nagypál, *supra* note 199, at 7–8.

<sup>247</sup> For example, the CFPB rulemaking activity regarding coerced debt, *supra* note 151, was the result of a petition by the National Consumer Law Center and the Center for Survivor Agency and Justice, which has been convening researchers, advocates and activists to work on coerced debt. <https://csaj.org/coerced-debt-dashboard/> (last visited Jan. 2, 2026).

<sup>248</sup> Fair Credit Reporting Act, 15 U.S.C. §§ 1681–1681x (2006).

<sup>249</sup> *Escaping Battered Credit*, *supra* note 33, at 415–17.

<sup>250</sup> TEX. PENAL CODE § 32.51 (2019).

<sup>251</sup> TEX. BUS. & COM. CODE § 521.051 (2021).

<sup>252</sup> See *Consumer Data Indus. Ass'n v. Frey*, 26 F.4th 1, 14 (1st Cir. 2022) (holding that the Fair Credit Reporting Act does not preempt state laws imposing additional credit reporting requirements unless they directly conflict with corresponding provisions).

<sup>253</sup> See *supra* notes 151, 154.

<sup>254</sup> See, e.g., ANDREA BOPP STARK & CARLA SANCHEZ-ADAMS, MODEL STATE COERCED DEBT LAW 1–13 (2024), <https://www.nclc.org/wp-content/uploads/2024/05/Model-State-Coerced-Debt-Law-1.pdf>; CAL. CIV. CODE §§ 1798.97.1–1798.97.6 (2023); MINN. STAT. §§ 332.71–332.75 (2023); ME. STAT. tit. 10, § 1310-H (2019); ME. STAT. tit. 32, § 11014 (2019).



## Appendix A. Methodology

This appendix provides in-depth methodological information about the study, *Debt as a Control Tactic in Abusive Marriages*.

### A. Recruitment & Retention

We recruited by identifying women who were divorcing men in the public online divorce records for Travis County<sup>255</sup> from April 2020 through February 2021. Interviews took place between three and seven months after each participant's divorce was finalized. We sent letters to every potential participant who met these criteria and for whom we found an address. The letters referenced a study on "women and divorce" to prevent abusive partners from learning that the study concerned intimate partner violence and offered \$100 in gift cards for participation. For represented participants whose addresses were not publicly available, we sent letters to their attorneys.<sup>256</sup> We followed up with a schedule of emails and texts to potential participants, and when relevant, calls and emails to their attorneys. Interested women could contact us about the study via phone, text, email, or an online form accessible by a URL or QR code. The recruiting materials also included an option to opt out of further contact from the study. We had a 53.9% response rate (708 out of 1314) for women contacted directly, and a 14.8% response rate (73 out of 462) for women contacted via their attorneys for an overall response rate of 44.0% (781 out of 1776).

The first point of contact for the 781 women who contacted us in response to our outreach was a telephone call with the research assistant in charge of initial participant contact and screening. This research assistant briefly explained the study, answered questions, obtained consent to ask our screening questions,

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<sup>255</sup> The original study design called for recruiting only half of participants from Travis County, where we had planned to recruit a random sample. The other half were to be recruited from Ingham County, Michigan. But the Covid-19 pandemic began just as we were about to start recruiting, and Ingham County court records were not online and hence not accessible during the pandemic. So, we shifted the entire study to Travis County and sent recruitment letters to all potential participants who met the criteria. Most Travis County court records were online during our recruitment period. According to the Clerk, the only records that were not online were those under seal, which would not have been available during an in-person search anyway.

<sup>256</sup> In Travis County, all divorcing spouses are required to list their contact information in the signature block of the decree. Interview with Family Division Director, Travis County District Clerk (Nov. 12, 2024). We noticed, however, that the signature block sections of the divorce decrees of many represented parties contained only contact information for their attorneys, whereas unrepresented parties included their personal contact information there. For represented parties with minor children, the lack of contact information at the end of the degree was not an issue because parties with minor children are required to include each parent's contact information in the decree section on custody of minor children. Thus, it was only represented women without minor children who generally did not provide their contact information in their decrees.

screened participants, and matched eligible participants with interviewers. Eligible participants were at least eighteen years of age, English speaking, and answered positively a two-part question about whether their ex-husbands used coercive control in their relationships.

Of potential participants who responded, 285 (36.5%) were eligible to participate, 174 (22.3%) were interested but ineligible, 161 (20.6%) opted out of future contact, 159 (20.4%) lost contact or declined to participate before the screening call, and 2 (0.3%) women requested a call back but did not receive one.

We started with 286 potential participants who were eligible for the study and ended with a final sample of 187, because 98 women dropped out during the study, and we disqualified one participant's data after the fact.<sup>257</sup>

## B. Data Collection

The original study design called for one three-hour, in-person interview with each participant, but that plan was modified to a multi-stage, remote protocol when the coronavirus pandemic struck just before data collection was to begin. We collected quantitative data through a self-administered online survey, a life history calendar, and two telephone interviews with the full sample. The first telephone interview focused on the participant's credit report, the second on her divorce decree.

### 1. Pre-interview Activities

The interviewers' initial contact with each participant was during a consent call. The goals of that call were to obtain informed consent as well as to help participants obtain their free credit reports and upload them to a secure folder for the study. (We immediately redacted and later streamlined all credit reports.) Once a participant uploaded her credit report, the interviewer gave her a personalized link to the online survey.

The online survey included demographic information, such as race/ethnicity, income at different points in her relationship with her ex-husband, and socio-economic status of the participant's family of origin. It also included five measures of abuse: (1) physical, including sexual; (2) psychological; (3) economic; (4) coercive control; and (5) battering, which captures "the experiences of battered women rather than the abusive behaviors they encounter," emphasizing "the meanings women attach to the violence and to battering as an enduring presence in

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<sup>257</sup> We determined, based on her online survey data, that she did not experience coercive control in her marriage.

their lives,”<sup>258</sup> Participants received a twenty dollars electronic gift certificate to stores of their choice after completing this survey.

Participants also completed a life history calendar online or at the beginning of the first telephone interview. The life history calendar (LHC) is a methodology that has been demonstrated to improve recall of autobiographical memories, including in the IPV context.<sup>259</sup> Memory researchers have identified three mechanisms for cuing autobiographical memories: top-down (asking about more general events in a life domain, followed by more specific), sequencing (chronologically ordering events within a domain), and parallel retrieval (facilitating recall across domains by association with events that are linked thematically, e.g., improving recall of employment by recalling housing history)<sup>260</sup> Traditional survey methods typically encourage only top-down retrieval, neglecting the retrieval mechanisms best suited for the recollection of personally-experienced life events. The LHC uses all three cuing mechanisms, thus enabling more accurate recall of events.<sup>261</sup>

The calendar for this study was a large grid with time units running horizontally and substantive domains extending vertically. The calendar started with domains that serve as guideposts for re-calling details of the abuse (i.e., age, key life events, intimate relationships, residences, employment). The IPV domains, including coerced debt, followed. The calendar was informed by our use of calendar methods in prior studies<sup>262</sup> and preliminary data collection in preparation for this study.

In the meantime, a team of law students coded participant credit reports by eliminating accounts that the participant’s ex-husband could not have used to

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<sup>258</sup> Paige Hall Smith, Jo Anne Earp & Robert DeVellis, *Measuring battering: development of the Women’s Experience with Battering (WEB) Scale*, 1 *WOMEN’S HEALTH: RSCH. ON GENDER, BEHAV., & POL’Y* 273, 273.

<sup>259</sup> Mieko Yoshihama, Julie Horrocks & Saori Kamano, *The Role of Emotional Abuse in Intimate Partner Violence and Health Among Women in Yokohama, Japan*, 99 *AM. J. PUB. HEALTH* 647, 647 (2009); Mieko Yoshihama, Amy C. Hammock & Julie Horrocks, *Intimate Partner Violence, Welfare Receipt, and Health Status of Low-Income African American Women: A Lifecourse Analysis*, 37 *AM. J. CMTY. PSYCH.* 95, 95 (2006); Mieko Yoshihama et al., *Does the Life History Calendar Method Facilitate the Recall of Intimate Partner Violence? Comparison of Two Methods of Data Collection*, 29 *SOC. WORK RSCH.* 151, 151 (2005); Mieko Yoshihama et al., *Measuring the Lifetime Experience of Domestic Violence: Application of the Life History Calendar Method*, 17 *VIOLENCE & VICTIMS* 297, 300 (2002).

<sup>260</sup> Robert Belli & Mario Callegaro, *The emergence of calendar interviewing: A theoretical and empirical rationale*, in *CALENDAR AND TIME DIARY: METHODS IN LIFE COURSE RESEARCH* (Robert Belli, et al., eds. 2009).

<sup>261</sup> See sources cited *supra* note 259.

<sup>262</sup> See *id.*

generate coerced debt, for example, accounts that were closed before the participant's relationship with her ex-husband began. Coders also extracted key information that would determine which questions participants were asked during the interviews. The last step before each first interview was that the interviewers entered data from the law students' credit report coding into the Qualtrics interview protocol to determine the initial questions the interviewer would ask.

The telephone interviews were audio recorded, and interviewers recorded participant responses in Qualtrics.

## 2. Coerced Debt Assessment

As described in the body of this manuscript, the main objective of the first interview was to assess for coerced debt by assessing for fraud, coercion, and manipulation of each relevant account on a participant's credit report.<sup>263</sup>

We assessed for fraud with two sets of questions. First, we asked if the participant recognized the account, and if not, whether she suspected her ex-husband opened it in her name. If she said yes, we asked why she suspected him. We counted a debt as fraudulent if the participant suspected her ex-husband opened it, and for accounts such as credit cards, any debt was generated. For accounts participants recognized, we asked each participant whether her ex-husband opened and/or used the account without her knowledge. Accounts opened and/or used without participant knowledge were counted as fraudulent.

We assessed for coercive transactions based on the coercive control framework of demands and consequences.<sup>264</sup> For the demand question, we asked whether the participant's ex-husband asked, encouraged, or pressured her to open and/or use the account. We included asking and encouraging because, in pre-testing, some participants said no to a question that included only pressure but then went on to describe demands and consequences. If a participant answered the demand question affirmatively, we solicited consequences for failure to open and/or use the account by asking: "What if you said, 'no'? Did your ex-husband make you think he might hurt you or a loved one in some way if you didn't do what he wanted? By 'hurt you,' I mean physically, emotionally, financially, or any other way." We framed the question in terms of predicted consequences to capture implied threats as well as explicit ones. Accounts for which participants answered "yes" to this question were counted as coerced.

For accounts for which the participant answered "yes" to the demand question and "no" to the threat of consequences question, we asked about

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<sup>263</sup> See *supra* Section II.B.

<sup>264</sup> See *id.*

manipulation: “Looking back on it, do you think he manipulated you into” opening or using the account? “For example, did he trick you, lie to you, or otherwise ‘con’ you into doing it?”

The remainder of the first interview consisted of questions about the timing of the onset of abuse and legal relief for coerced debt. We have reproduced the legal relief question list in Appendix B. Participants received a thirty-dollar electronic gift certificate to stores of their choice after completing the first interview.

### 3. Collecting Divorce Data

The second interview began with general questions about the divorce, including evaluation of their attorney’s performance (for represented participants) and the extent to which cost of an attorney influenced their decision about hiring.

For participants with coerced debt outstanding at the time of divorce, the next set of questions addressed how they handled coerced debt in the divorce to determine: (1) how coerced debts were distributed; (2) how that distribution occurred; and (3) the extent to which the participant was satisfied with the outcome. Before the interview, law students had applied the divorce decree language about debt distribution to each participant’s coerced debts that were outstanding at the time of the divorce. Most of this language was comprised of general statements like, “Wife shall pay all debts solely in her name,” but occasionally, decrees listed specific debts. If it was unclear how the decree applied to a coerced debt, which was common for unsecured joint accounts, we asked the participant who was supposed to pay it. From this information, we determined whether the divorce decree shifted responsibility for each coerced debt.

To determine how the debt distribution occurred, we asked about each coerced debt that was still outstanding at the time of the divorce: “In the process of divorce, women sometimes try to make their ex-husbands’ responsible for debt that their ex-husbands created in their name without them knowing or by pressuring them. At any point during the divorce process, did you and/or your attorney try to make your ex-husband responsible for paying the [account type] with [lender]?” To assess the factors that influenced participant decisions about whether to raise each coerced debt in the divorce, we asked, “There are many reasons people try or don’t try to make their ex-husbands responsible for these types of debts. To what extent did each of the following contribute to your decision about whether to try to make your ex-husband responsible for paying the [account type] with [lender]?” Finally, we assessed satisfaction with the question: “How satisfied or dissatisfied are you with that decision now?”

The remainder of the second interview focused on the property distribution in the divorce. For each asset a participant received, we provided all information

about it from the divorce decree and asked her to estimate its value. For real estate and vehicles, we also provided an estimated value to help participants with a starting point and asked about participant's planned disposition of the property.

Before each participant's interview on divorce outcomes, law student research assistants coded participant divorce decrees by sorting the assets participants received into several categories: real estate, vehicles, household items valuable enough to influence the participant's financial circumstances, savings and other financial assets, spousal support, child support, cash, retirement, and other, abstract property, such as frequent flyer accounts or businesses. Divorce decrees rarely mentioned the value of assets, except occasionally for real estate. Moreover, divorces in which neither spouse used an attorney produced decrees on forms containing general statements about asset allocation with blanks for the spouses to enter specific assets. Examples of these general statements include, "All property in Wife's care, custody or control, or in Wife's name, that this Decree does not give to the Husband," and "All cash and money in any bank or other financial institution listed in Wife's name alone" in the decree section called, "Wife's Community Property."<sup>265</sup> Slightly more than half of participants with coerced debt at the time of divorce, fifty-three percent, had divorces in which neither spouse used an attorney.

Before each interview, interviewers entered the coded information from the divorce decrees into Qualtrics, so the interview protocol asked participants about their assets using as much information as we had. Real estate<sup>266</sup> and vehicle<sup>267</sup> value information is available online, so we provided participants with a value estimate to give them a starting place and asked them to confirm our estimate or provide their own.

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<sup>265</sup> Final Decree of Divorce, Petitioner and Respondent, Travis Cnty. Civ. Dist. Ct. (2020).

<sup>266</sup> For real estate, we developed a protocol based on the experience of a research assistant who had worked in the Texas real estate market. Coders used the site Har.com and chose the CoreLogic value of the real estate. If the CoreLogic value was unavailable, coders averaged the estimates from the other three value options, Black Knight, Zillow, and the appraisal district.

<sup>267</sup> For vehicles, if the divorce decree listed the vehicle identification number (VIN), coders entered it and the participant's zip code into Carfax.com and selected "good" condition, an intermediate rating, and "private party value." If the VIN was unavailable, coders entered the vehicle's year, make, and model as well as the participant's zip code into Kelly Blue Book Value my Car. Coders selected "good" condition and determined mileage by multiplying the vehicle's age by the average number of miles a U.S. woman drives annually (10,142). See *CARFAX Vehicle History Reports*, CARFAX, <https://www.carfax.com/vehicle-history-reports/> (last visited Mar. 6, 2025); *My Car's Value*, KELLEY BLUE BOOK, <https://www.kbb.com/whats-my-car-worth/> (last visited Mar. 6, 2025); *Average Annual Miles per Driver by Age Group*, FED. HIGHWAY ADMIN., U.S. DEP. OF TRANSP. (May 31, 2022), <https://www.fhwa.dot.gov/ohim/onh00/bar8.htm>.

For household items, we asked a threshold question, “Was any of this property valuable enough that it would change your financial situation if you sold it?” and asked about value only if participants said “yes.” For child support, spousal support, and cash, we asked how much was allocated (if not in the divorce decree) and how much the participant had received. For cash payments for which the purpose was not specified in the divorce decree, we asked if they were to cover participant debts, and if so, which ones. For the rare instances in which the divorce decree stated that cash payment were to pay the participant’s debts, we asked which debts they covered. The purpose of the latter two questions was to determine whether the participant had received cash for purpose of paying coerced debt.

Participants received electronic gift cards for fifty dollars after completing the second interview.

## Appendix B. Legal Relief Questions

Introduction: Now I’d like to ask you about legal options for dealing with the debts. The goal of these questions is to ask you generally about your awareness of and opinion about these remedies, not to give you legal advice.

1. One legal option people have is to ask their credit-card company or bank to cancel certain credit-card or debit-card debt that somebody created without their knowledge. Were you aware of this?

Yes

No

2. How willing would you be to ask your credit-card company or bank to cancel certain credit-card or debit-card debt that somebody created without your knowledge?

Not at all willing

A little willing

Moderately willing

Quite willing

Extremely willing

3. How willing would you be to file a police report if your credit card company or bank required it to cancel the debt?

Not at all willing

A little willing

Moderately willing

Quite willing

Extremely willing

4. Under Texas law, people don't have to pay debts that are at least 4 years old as long as they haven't made any payments or charges in 4 years. This law is called "statute of limitations." Were you aware of this?

Yes

No

5. In order to use the Texas statute of limitations law, you would have to stop paying on the debt for 4 years. How willing would you be to stop paying debt that someone else put in your name in order to use the statute of limitations law? If you did this you wouldn't be responsible for paying it.

Not at all willing

A little willing

Moderately willing

Quite willing

Extremely willing

6. In order to use the Texas statute of limitations law, you would have to stop paying on the debt for 4 years. How willing would you be to stop paying debt that you took out voluntarily in order to use the statute of limitations law? If you did this you wouldn't be responsible for paying it.

Not at all willing

A little willing

Moderately willing

Quite willing

Extremely willing

7. Bankruptcy can help people erase some of their debt. Were you aware of this?

Yes

No

8. People who go through bankruptcy are no longer responsible for paying on some of their debts. How willing would you be to file for bankruptcy to become not responsible for some of your debt?

Not at all willing

A little willing

Moderately willing

Quite willing

Extremely willing

9. Most people who file for bankruptcy have an attorney. In one type of bankruptcy, you erase some debts in about 6 months. For this, lawyers cost about \$1,550 - \$1,850 and you have to pay the fee before you can file for bankruptcy. To what extent would the cost of an attorney affect your decision to hire one for this kind of bankruptcy?

Not at all

A little

Somewhat

Quite a bit

Very much

10. There is another kind of bankruptcy where you repay some of your debts for 3-5 years. At the end of this process, you can erase some of the debts that you haven't paid yet. For this, lawyers cost about \$3,600 - \$3,700, but you can pay that fee over time after you've filed for bankruptcy. To what extent would the cost of an attorney affect your decision to hire one for this kind of bankruptcy?

Not at all

A little

Somewhat

Quite a bit

Very much

