

## Consumer Debt Litigation Index

### Top Recommendations for Reform in Illinois

**Illinois's Score: 24/100**

**Illinois's National Rank: 21st**

Consumer debt lawsuits dominate civil court dockets across the country. In an overwhelming number of cases—more than 70% in many places—the people sued do not respond or defend themselves. As a result, courts often enter default judgments without determining whether the defendant even knows about it, it is timely, or has merit. In turn, people face high fees and interest, onerous payment plans, seizure of wages and possessions, and potential imprisonment. States across the country have established laws and practices aimed at reducing unjust lawsuits and producing fairer outcomes. To support states in their respective efforts, the National Center for Access to Justice in 2024 created the Consumer Debt Litigation Index in consultation with a panel of experts. The Index ranks the states on their progress in adopting 24 best policies (“benchmarks”) for fairness. See our Top Recommendations and Complete Findings, below.

#### 1. Establish Pleading Requirements (Benchmark 6)

**Why:** People facing debt collection lawsuits often have difficulty understanding the claim against them. Lax pleading requirements also invite illegitimate lawsuits. Requiring complaints to name the original creditor, demonstrate ownership of the debt, and itemize specific amounts sought can deter meritless filings and enable defendants to assert legitimate defenses, promoting fairness. Delaware, New Mexico, New York, and Washington, D.C., all require consumer debt complaints to include all three key elements. Illinois applies these requirements to credit card complaints and to debt buyers, but not to other creditors.

**How:** Illinois should adopt a law or practice that requires plaintiffs in all consumer debt cases to allege: (a) the name of the original creditor; (b) the plaintiff’s standing (e.g. the chain of ownership of the debt); and (c) an itemization of the amount sought, including debt principal, interest, fees, costs, and other charges to date. If it does so, the state's score would increase 10 points.

#### 2. Require Authenticated Business Records for A Default (Benchmark 7)

**Why:** Illinois does not meet this benchmark because the state does not require the following to be established before a default judgment can be granted in consumer debt lawsuits, except in lawsuits for recovery of credit card debt and lawsuits brought by debt buyers: (a) proof of service, (b) validity of debt, through authenticated business records, and (c) amount of judgment sought, through authenticated business records. Ill. Sup. Ct. R. 280, and 280.2(b)-(c); Credit Card or Debt Buyer Collection Affidavit, <https://www.illinoiscourts.gov/Resources/4a602d48-5dac-4de3-b675-f864f1eb4dab/280.2.pdf>.

**How:** Illinois should adopt a law or practice that requires plaintiffs in all types of consumer debt cases, in addition to credit card lawsuits and debt buyer lawsuits, to establish the following before a court may enter a default judgment: (a) proof of service; (b) validity of the debt through authenticated business records (e.g. contract, account statements, or other evidence of obligation); and (c) amount of the judgment through authenticated business records, itemizing damages, court fees, attorneys' fees, and interest. If it does so, the state's score would increase 10 points.

### **3. Ensure that Garnishment Exemptions for Bank Accounts Are Self-Executing (Benchmark 14) and Update Garnishment and Attachment Exemptions (Benchmark 15)**

**Why:** Without sufficient protections, garnishment and attachment orders to seize money or assets from a debtor to pay a creditor can leave people unhoused, unable to keep a car to drive to work, and stuck in cycles of poverty. Federal law exempts some funds from garnishment and some property from attachment, but debtors often do not learn what funds and property are exempt or how to assert exemptions. Further, the federal exemptions are out of date and inadequate to preserve even a very basic standard of living. Many states—including California, Idaho, Maryland and Wyoming—make some exemptions "self-executing", meaning that a bank must protect exempt funds even when the debtor does not assert exemptions (Benchmark 14). Other states have increased garnishment and asset exemptions (Benchmark 15). For example, in consumer debt cases Texas has garnishment exemptions that protect 100% of a person's wages, and attachment exemptions that protect a home (of any value) and personal property (including a car) up to a value of \$100,000 for a family or \$50,000 for an individual. Illinois, however, does not have self-executing bank account exemptions, and it has not increased garnishment and attachment exemptions sufficiently to protect a home and a car.

**How:** Illinois should make bank account exemptions self-executing. Further, Illinois should update and expand on garnishment and attachment provisions so that they protect at minimum: (a) a home, regardless of value, or at least the median price of a home in the state; and (b) a car valued up to at least \$15,000. If it does so, the state's score would increase 7 points.

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## **What Would Happen if Illinois were to Implement these Recommendations?**

These three recommendations, if adopted by the state, would substantially increase Illinois's score and ranking. For more on how Illinois can do better, see the complete findings below and visit NCAJ's

[Consumer Debt Litigation Index](https://ncaj.org/state-rankings/consumer-debt) at <https://ncaj.org/state-rankings/consumer-debt> or reach out to NCAJ at [NCAJ@fordham.edu](mailto:NCAJ@fordham.edu).

# Complete Consumer Debt Litigation Index Findings for Illinois

## I. Issue Area: Help people know when they are being sued and where to find help.

### 1 - Government Notice of Lawsuits

Score: 0/5

Does the state respond to the problem of ineffective or fraudulent ("sewer") service in consumer debt lawsuits by: a. Public Official Service - requiring that a public official (e.g. the court or the sheriff) handle service? or, b. Court Supplemental Notice - requiring the court to send the defendant, by first class mail, supplemental notice of a new consumer debt lawsuit and deny default judgment if that notice is returned as undeliverable?

No

Illinois does not meet this benchmark because it does not meet either sub-benchmark 1a or 1b. Although it requires that service of process be effected by the sheriff or coroner in counties with a population greater than 2,000,000, for counties with a population of less than 2,000,000, process may be served "by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 20041 or by a registered employee of a private detective agency." IL ST CH 735 § 2-202(a). Illinois does not satisfy benchmark 1b, because it does not require that the court send the defendant, by first class mail, supplemental notice of a new consumer debt lawsuit and deny default judgment if that notice is returned as undeliverable.

### 2 - Guidance on Finding Help

Score: 5/5

Does the state require that notice to the defendant in a consumer debt lawsuit include guidance on where to seek help, including free legal assistance?

Yes

Illinois meets this benchmark because Illinois Supreme Court Rule 101 requires, in actions for money not in excess of \$50,000, exclusive of interests and costs, that the summons must be issued substantially in the appearance of the form provided in the Article II Forms Appendix. ILCS S. Ct. Rule 101. The form of summons approved by the Illinois courts (and required to be used pursuant to the Rule 101), satisfies this benchmark because it provides "Call or text Illinois Court Help at 833-411-1121 for information about how to go to court including how to fill out and file forms. You can also get free legal information and legal referrals at [illinoislegalaid.org](https://illinoislegalaid.org)." See Ill. Ct., Forms, available at <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/03a0bdb2-4857-48c9-aab3-447b2e2267a3/SUM%20Summons.pdf>. Similar language is also included on the approved summons for Small Claims cases. See <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/b3dc2025-ba0a-44c0-a3a2-57c935c5518d/SMC%20Summons.pdf>

## II. Issue Area: Make it easier to respond to a lawsuit.

### 3 - Simplified Answer

Score: 2/2

Does the state provide a simple Answer process by making available an Answer form for use by unrepresented persons in consumer debt lawsuits?

Yes

Illinois meets this benchmark because the form summons required pursuant to Supreme Court Rule 101 provides a link to "Appearance and Answer/Response" forms that are available on the Court's webpage. ILCS S. Ct. Rule 101; The form Answer/Response contains detailed information/instructions, and enables the defendant to respond to each paragraph and subparagraph of the complaint by checking the applicable box of "Admit," "Deny," or "Do Not Know." See Rule 101 - Summons and Original Process-Form and Issuance, Ill. Sup. Ct. R. app of Article II Forms R. R. 101 (2021), available at <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/1fcceee2-ffe2-4c90-b428-fc696cce4d57/ANS%20Response%20to%20Complaint%20Petition.pdf>.

### 4 - No Notarization Requirement to Answer

Score: 2/2

Does the state make it easier to respond to consumer debt lawsuits by never requiring defendants to have an Answer notarized before filing?

Yes

Illinois meets this benchmark. If a Complaint or Petition is verified, then the defendant is required to verify the Answer/Response. See 735 ILCS 5/2-605(a); Rule 101 - Summons and Original Process-Form and Issuance, Ill. Sup. Ct. R. app of Article II Forms R. R. 101, available at <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/1fcceee2-ffe2-4c90-b428-fc696cce4d57/ANS%20Response%20to%20Complaint%20Petition.pdf>. However, verification in Illinois does not require notarization. “[u]nless otherwise expressly provided by rule of the Supreme Court, whenever in this Code any . . . answer . . . filed in any court of this State is required . . . to be verified . . . such requirement . . . is hereby defined to include a certification of such pleading . . . under penalty of perjury as provided in this Section.” 735 Ill. Comp. Stat. Ann. 5/1-109 (West 2023). “Any pleading, affidavit, or other document certified in accordance with this Section may be used in the same manner and with the same force and effect as though subscribed and sworn to under oath, and there is no further requirement that the pleading, affidavit, or other document be sworn before an authorized person.” Id.

### 5 - No Fee to Answer

Score: 0/5

Does the state permit the filing of an Answer in consumer debt lawsuits without charging a filing fee?

No

Illinois does not meet the benchmark because some counties require payment of a filing fee to submit a response in both small claims and state courts, the amount of which varies from county to county. See e.g., Kane County Circuit Court, Kane County 16th Judicial Circuit Fee Schedule (Jan. 23, 2023), Clark County Illinois, Circuit Clerk—Fees; Nineteenth Judicial Circuit Court, Lake County, Illinois, Filing and Fees (“A court fee is charged when you file your petition, or when you file your appearance/answer.”). Additionally, some courts in Illinois require an appearance in addition to submitting an answer, and require the defendant pay a filing fee for the appearance. See e.g., Office of the Circuit Court Clerk, Lake County, Illinois, Fee Schedule

(effective Sept. 6, 2022). <https://www.clarkcountyil.org/fees> <https://19thcircuitcourt.state.il.us/2125/Filing-and-Fees>

### III. Issue Area: Require the creditor to provide evidence of a valid debt claim.

#### 6 - Pleading Requirement

Score: 0/10

Does the state require consumer debt complaints to allege all of the following: a. Name of original creditor; b. Basis of plaintiff's standing (e.g. chain of ownership of debt); and c. Itemization of amount sought including debt principal, interest, fees, costs, and other charges to date?

No

Illinois does not meet this benchmark because although it requires (a) the name of the original creditor, (b) the basis of plaintiff's standing, and (c) itemization of the amount sought, for complaints on credit card debt or those filed by debt buyers, Ill. Sup. Ct. R. 280.2(b)-(c); Credit Card or Debt Buyer Collection Affidavit, <https://www.illinoiscourts.gov/Resources/4a602d48-5dac-4de3-b675-f864f1eb4dab/280.2.pdf>, it does not require that these elements be pled in other types of consumer debt complaints.

#### 7 - Authenticated Records for Default

Score: 0/10

Does the state require the following be established before a default judgment can be granted: a. Proof of Service b. Validity of debt through authenticated business records (e.g. contract, account statements, or other evidence of obligation); and c. Amount of judgment through authenticated business records, itemizing damages, court fees, attorneys' fees, and interest?

No

Illinois does not meet this benchmark because the state does not require the following to be established before a default judgment can be granted in consumer debt lawsuits, except in lawsuits for recovery of credit card debt and lawsuits brought by debt buyers: (a) proof of service, (b) validity of debt, through authenticated business records, and (c) amount of judgment sought, through authenticated business records. Ill. Sup. Ct. R. 280, and 280.2(b)-(c); Credit Card or Debt Buyer Collection Affidavit, <https://www.illinoiscourts.gov/Resources/4a602d48-5dac-4de3-b675-f864f1eb4dab/280.2.pdf>.

### IV. Issue Area: Require consumer debt collection actions to be brought within a reasonable time of non-payment.

#### 8 - Burden on Plaintiff to Allege Timeliness

Score: 0/2

Does the state place the pleading burden on the consumer debt plaintiff to allege in the Complaint the timeliness of each claim, including each of the following: a. applicable statute of limitations; b. date that claim accrued; and c. date that statute of limitations expires?

No

Illinois does not meet the benchmark because it does not require a consumer debt plaintiff to allege (a) the applicable statute of limitations, (b) the date the claim accrued, or (c) when the statute of limitations expires.

Ill. Sup. Ct. R. 280.2(b), (d); Credit Card or Debt Buyer Collection Affidavit,  
<https://www.illinoiscourts.gov/Resources/4a602d48-5dac-4de3-b675-f864f1eb4dab/280.2.pdf>.

### 9 - Four Year Statute of Limitations

Score: 0/5

Does the state require 4-year (or shorter) statute of limitations for the causes of action most commonly used to pursue consumer debt collection: breach of contract (written or oral), open account, account stated, unjust enrichment, conversion, bad check?

No

Illinois does not meet this Benchmark because it does not impose a 4-year (or shorter) statute of limitations for all consumer debt claims. In particular, Illinois has the following limitations periods: • breach of written contract: 10-year limitations period (735 Ill. Comp. Stat. § 5/13-206); • breach of oral contract: 5-year limitations period (735 Ill. Comp. Stat. § 5/13-205); • open account: 5-year limitations period (Portfolio Acquisitions, LLC v. Feltman, 391 Ill. App. 3d 642 (Ill. App. Ct. 2009) (finding that credit card contract was an oral contract for purposes of statute of limitations and five-year period applied)); • account stated: 4-year limitations period (Portfolio Acquisitions, LLC v. Feltman, 391 Ill. App. 3d 642 (Ill. App. Ct. 2009) (finding sale of goods are subject to the four-year statute of limitations under section 2-725 of the UCC) (citing 810 ILCS 5/1-101 et seq.)); • unjust enrichment: 5-year limitations period (735 Ill. Comp. Stat. 5/13-205); • conversion: 5-year limitations period (735 Ill. Comp. Stat. § 5/13-205); and • passing a bad check: 3-years after dishonor of the draft or 10 years after the date of the draft, whichever expires first (810 Ill. Comp. Stat. § 5/3-118(c),(d)).

### 10 - Prohibit Revival of Time-Barred Claims

Score: 0/2

Does the state prohibit revival of time-barred consumer debt claims, even where defendant makes subsequent payment toward a debt?

No

Illinois does not meet this Benchmark because it makes consumer debt claims subject to revival even after the statute of limitations has run, including when a debtor explicitly acknowledges the debt, or expresses a new promise to pay the full debt. See *Guliana v. Kandu*, 2021 IL App (1st) 200844-U (finding claims were not barred by the statute of limitations because the defendant made a new promise to pay the debt he owed to the plaintiff).

## V. Issue Area: Prohibit attorneys' fee shifting, and cap interest.

### 11 - Prohibit Attorneys' Fees Shifting

Score: 0/3

Does the state prohibit attorneys' fee shifting in consumer debt lawsuits regardless of contractual provision or reciprocity in fee shifting?

No

Illinois does not meet this benchmark because it does not prohibit fee shifting in consumer debt litigation. Illinois provides for recovery of attorneys' fees for the prevailing party in civil litigation. 735 Ill. Comp. Stat. Ann. 5/5-108; 735 Ill. Comp. Stat. Ann. 5/5-109. Furthermore, Illinois does not prohibit shifting of attorneys' fees where contractual provisions provide for such fee-shifting. *Negro Nest, LLC v. Mid-Northern Mgmt.*, 362 Ill. App. 3d 640, 642 (2005). Note: Illinois provides for reciprocal fee shifting, entitling a prevailing party to claim fees where the underlying agreement between the parties contains a provision expressly authorizing the other party to claim fees. 815 Ill. Comp. Stat. Ann. 604/10. States that provide for reciprocal fee shifting did not

receive a Yes Answer for this approach because barring attorneys' fees altogether provides greater protection for debtors against high, contractually stipulated fees. Further, given that the vast majority of debtors are unrepresented, reciprocal fee shifting would not result in payments from creditors in most cases, even when the defendant wins.

## 12 - Interest Caps

Score: 0/3

Does the state cap interest in consumer debt lawsuits (regardless of any contractual provision) as follows: a. Pre-judgment interest for debt buyers capped at an annual rate of 7% (or less); and b. Post-judgment interest for all creditors capped at 5% (or less) of the judgment?

No

Illinois does not meet this benchmark because it does not satisfy the requirements of sub-benchmarks (a) or (b). Regarding prejudgment interest, Illinois law states: "Except as otherwise provided in Section 4.05, in all written contracts it shall be lawful for the parties to stipulate or agree that an annual percentage rate of 9%, or any less sum, shall be taken and paid upon every \$100 of money loaned or in any manner due and owing from any person to any other person or corporation in this state, and after that rate for a greater or less sum, or for a longer or shorter time, except as herein provided." 815 Ill. Comp. Stat. 205/4. Illinois law also states that, in the absence of an agreed upon rate in the contract, a creditor may charge 5% upon 30 days notice to the debtor. 815 Ill. Comp. Stat. 205/2. Thus, Illinois does not limit prejudgment interest on debt to 7% or less (as is required to meet sub-benchmark (a)). Regarding post-judgment interest, Illinois law states: "Except as provided in subsection (b), judgments recovered in any court shall draw interest at the rate of 9% per annum from the date of the judgment until satisfied or 6% per annum when the judgment debtor is a unit of local government." 735 Ill. Comp. Stat. 5/2 1303(a). Thus, Illinois does not limit post-judgment interest to 5% or less of the judgment (as is required to meet sub-benchmark (b)).

## VI. Issue Area: Reduce the likelihood that consumer debt collection actions leave people homeless, or perpetuate a cycle of debt.

### 13 - Require Court Order to Garnish or Attach

Score: 5/5

Does the state in consumer debt lawsuits require a court order for garnishment and attachment?

Yes

Illinois meets the benchmark because the law requires the court to issue an order of attachment. 735 ILCS 5/4-110. In the case of garnishment, the clerk of the court in which the judgment was entered must issue a summons for the person named in the filings to appear in the court as garnishee. 735 ILCS 5/12-701.

### 14 - Bank Account Garnishment Exemptions Are Self Executing

Score: 0/2

Does state law require in consumer debt lawsuits that garnishment exemptions for bank accounts are self-executing?

No

Illinois does not meet the benchmark because it does not require financial institutions to protect money deposited in bank accounts unless a judgment debtor asserts an exemption. 735 Ill. Comp. Stat. Ann. 5/12-1001(b) specifies the amount that may be exempted with respect to the debtor's equity interest in any property, but it is not self-executing.

**15 - Essential Exemptions****Score: 0/5**

Does the state prevent people from becoming impoverished, unhoused, or unable to work by exempting income and assets from attachment and garnishment, as follows: a. Income of at least \$576.92 per week, the minimum to keep a family of four above the federal poverty level, as defined by the U.S. Federal Poverty Guidelines in 2023; b. Home, regardless of value, or at least the median price of a home in the state; and c. Car value, state exemption for, at least, the first \$15,000 in value?

**No**

Illinois does not meet this benchmark because it does not meet sub-benchmarks (b) or (c). Illinois law provides as follows: (a) Income: Illinois meets sub-benchmark (a) because it exempts the lesser of 85% of a person's gross weekly wages or 45 times the federal or state minimum wage, whichever is greater, in effect when the person is paid. 735 Ill. Comp. Stat. Ann. 5/12-803 (West 2023). Forty-five times the state minimum wage in 2023 (\$13 per hour) is \$585 per week. State Minimum Wage Laws, U.S. Dep't of Labor (Sept. 30, 2023), <https://www.dol.gov/agencies/whd/minimum-wage/state>. (b) Home: Illinois does not meet sub-benchmark (b) because one home is exempt only up to a value of \$15,000 subject to certain limited exceptions. 735 Ill. Comp. Stat. Ann. 5/12-901 (West 2023). (c) Car: Illinois does not meet sub-benchmark (c) because a person's interest in one car is exempt only up to a value of \$2,400. Id. at 5/12-1001(c). For more information on garnishment exemptions see Michael Best and Carolyn Carter, No Fresh Start 2023, National Consumer Law Center (Dec. 2023), [https://www.nclc.org/wp-content/uploads/2023/12/2023\\_Report\\_No-Fresh-Start-3.pdf](https://www.nclc.org/wp-content/uploads/2023/12/2023_Report_No-Fresh-Start-3.pdf).

**16 - Require Prior Notice of Garnishment****Score: 0/5**

Does the state require notice to debtor prior to actual garnishment that explains all of the following: a. potential exemptions? b. how to challenge the order? and c. how to assert exemptions?

**No**

Illinois does not meet this benchmark because it does not require prior notice of non-wage garnishment exemptions or how to assert them. Rather, the state only requires that a judgment debtor be served with the non-wage garnishment notice within two business days of service upon the garnishee (which service may be accomplished by mail). See 735 Ill. Comp. Stat. Ann. 5/12-705(b) (West 2023). If Illinois required prior notice to the judgment debtor of non-wage garnishment, the state would meet sub-benchmark (a) (potential exemptions) because it requires that notice include an extensive list of exemptions; sub-benchmark (b) (how to challenge the order) because the required notice provides the manner in which to contest the order, id; and sub-benchmark (c) (how to assert exemptions) because the notice contains an instruction on how to claim exemptions. Id. Illinois does require advanced notice to the judgment debtor for wage garnishment. Additionally, for wage garnishment, the state meets sub-benchmark (a) (potential exemptions), because the required notice explains the federal and state exemptions from wage garnishment and sub-benchmark (c) (how to assert exemptions) because the notice explains how to assert exemptions. Id. at 5/12-805. The state does not meet sub-benchmark (b) because the wage garnishment notice does not explain how to challenge the garnishment order (in contrast to the notice for non-wage garnishment).

**VII. Issue Area: Eliminate debtors' prison.****17 - Prohibit Incarceration for Failure to Obey a Court Order to Pay Consumer Debt****Score: 0/5**



Does the state prohibit incarceration for contempt for failure to obey a court order to pay all or part of a consumer debt judgment?

**No**

Illinois does not meet the benchmark because Illinois case law permits incarceration for contempt for failure to obey a court order to pay a debt judgment. In *First Nat. Bank & Tr. Co. of Evanston v. Desaro*, 43 Ill. App. 2d 153, 159 (1963), the court upheld a contempt order to pay \$800 in rent payments. The appellant argued that his imprisonment violated his constitutional rights because it amounted to imprisonment for debt, but the court disagreed and held, "This case is not one in which the appellant is being imprisoned for his failure to pay a debt. His imprisonment is rather a result of his attitude of contempt and scorn for the orders of the trial court." Id. at 160. The court further stated: "This mere statement of inability to pay is, as was pointed out by the trial judge, 'No excuse.'" Id.

### **18 - Prohibit Incarceration for Failure to Obey a Court Order to Appear at a Debtor's Examination, Unless Nonappearance Was Willful**

**Score: 5/5**

Does the state prohibit arrest and/or incarceration for contempt for failure to appear at a debtor's examination (i.e. a judgment enforcement proceeding), unless the person's failure to appear was willful?

**Yes**

Illinois meets the benchmark because a person's failure to appear at a debtor's exam must be willful to constitute contempt. If a litigant fails to appear for a debtor's examination, the law provides that the court shall commence a citation proceeding. All citations issued by the clerk must contain the following language, in capital letters: "IF YOU FAIL TO APPEAR IN COURT AS DIRECTED IN THIS NOTICE, YOU MAY BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY IMPRISONMENT IN THE COUNTY JAIL." 735 ILCS 5/2-1402. Court rules, however, define civil contempt as "The willful failure to obey a Court Order or Judgment." See Il. R. 19 Cir. Rule 10-1.04.

### **19 - Provide Right to Counsel**

**Score: 0/5**

Does the state provide a lawyer without charge in any contempt or other proceeding in which incarceration is a potential outcome in a consumer debt lawsuit?

**No**

Illinois does not meet the benchmark because the courts have held that "a respondent in an indirect civil contempt proceeding is not entitled to appointed counsel if he or she is indigent, even though the contempt proceeding may result in imprisonment." In *re Marriage of Betts*, 558 N.E.2d 404, 422 (Ill. App. Ct. 4 Dist., 1990).

## **VIII. Issue Area: Prevent government from undue intervention on behalf of creditor.**

### **20 - Prohibit Collaboration Between Creditors and Prosecutors**

**Score: 0/2**

Does the state prohibit relationships (including financial relationships) in which prosecutors lend the authority of their offices to facilitate the activities of debt collectors (e.g. payments by creditors to prosecutors who threaten or bring criminal prosecutions in bad check cases)?

**No**

Illinois does not meet this benchmark because its bad check statute explicitly allows state attorneys to contract with private entities to conduct bad check diversion programs. 720 ILCS 5/17-1b.

### 21 - Prohibit Paying Bail/Bond to Creditor

Score: 0/2

Does the state prohibit use of bail to pay the creditor in all contempt proceedings, or in other proceedings in a consumer debt lawsuit in which incarceration is a possible outcome?

No

Illinois does not meet the benchmark because it expressly authorizes the payment of bond to a judgment creditor. The law provides that in the case of indirect civil contempt, "Upon discharge of any bond secured by the posting of funds, the funds shall be returned to the respondent or other party posting the bond, less applicable fees, unless the court after inquiry determines that: (1) the judgment debtor willfully has refused to comply with a payment order entered in accordance with Section 2-1402 or an otherwise validly entered order; (2) the bond money belongs to the debtor as opposed to a third party; and (3) that any part of the funds constitute non-exempt funds of the judgment debtor, in which case the court may cause the non-exempt portion of the funds to be paid over to the judgment creditor." 735 Ill. Comp. Stat. Ann. 5/22-107.5(e).

### 22 - Limit Frequency of Examinations

Score: 5/5

Does the state in consumer debt litigation schedule or otherwise limit financial examinations to no more than once per year?

Yes

Illinois meets this benchmark because under Supreme Court Rule 277(a), a party cannot pursue a second or subsequent examination without leave of the court. The court may order another debtor's examination "but only upon a finding of the court, based upon affidavit of the judgment creditor or some other person, having personal knowledge of the facts, (1) that there is reason to believe the party against whom the proceeding is sought to be commenced has property or income the creditor is entitled to reach, or, if a third party, is indebted to the judgment debtor, (2) that the existence of the property, income or indebtedness was not known to the judgment creditor during the pendency of any prior supplementary proceeding, and (3) that the additional supplementary proceeding is sought in good faith to discover assets and not to harass the judgment debtor or third party." Ill. Sup. Ct. R. 277.

## IX. Issue Area: Collect data to improve the system.

### 23 - Data Collection: Number of Lawsuits

Score: 0/3

Do state courts at least annually collect and publish statewide data on number of consumer debt lawsuits?

No

Illinois does not meet the benchmark because Illinois does not collect and publish statewide data on the number of consumer debt lawsuits or the types of dispositions of consumer debt lawsuits. While Illinois publishes state court annual and statistical reports, the reports only track law cases over \$50,000, law cases under \$50,000 and small claims cases (less than \$10,000). Law cases relate to tort, contract and a variety of other actions, so the reports do not provide details of consumer debt collection filings or dispositions. The clerks of the Illinois courts must comply with requests made by the Supreme Court for information, statistical data and reports. ILL. COMP. STAT. 705/125/1 (2022). The clerks of the circuit courts must file reports containing information and statistical data with the Administrative Office of the Illinois Courts on forms and

according to instructions of the Director of the Administrative Office. ILL. COMP. STAT. 705/105/16 (2022). See also ANNUAL REPORT OF THE ILLINOIS COURTS (last visited July 28, 2023). See <https://www.illinoiscourts.gov/reports/>.

## 24 - Data Collection: Disposition of Lawsuits

Score: 0/2

Do state courts at least annually collect and publish statewide data on types of dispositions of consumer debt lawsuits? **No**

Illinois does not meet the benchmark because Illinois does not collect and publish statewide data on the number of consumer debt lawsuits or the types of dispositions of consumer debt lawsuits. While Illinois publishes state court annual and statistical reports, the reports only track law cases over \$50,000, law cases under \$50,000 and small claims cases (less than \$10,000). Law cases relate to tort, contract and a variety of other actions, so the reports do not provide details of consumer debt collection filings or dispositions. The clerks of the Illinois courts must comply with requests made by the Supreme Court for information, statistical data and reports. ILL. COMP. STAT. 705/125/1 (2022). The clerks of the circuit courts must file reports containing information and statistical data with the Administrative Office of the Illinois Courts on forms and according to instructions of the Director of the Administrative Office. ILL. COMP. STAT. 705/105/16 (2022). See also ANNUAL REPORT OF THE ILLINOIS COURTS (last visited July 28, 2023). See <https://www.illinoiscourts.gov/reports/>.

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