



OFFICE OF THE DISTRICT ATTORNEY

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Guidance for La Crosse County District Attorney's Check Enforcement Program

PROCEDURE FOR HANDLING WORTHLESS CHECKS

If a check is returned to you from the bank by reason of "insufficient funds", "account closed" or "no account", the following procedure should be followed:

- A. A notice of nonpayment on a dishonored check letter must be mailed to the person who wrote the check (the letter should be similar in content to the attached form letter).
- B. If restitution is not made to you in the time period specified in the above-mentioned letter, the check and a copy of the letter should be forwarded to the District Attorney's Office.
- C. The attached worthless check form is to be completed. This information is required for drafting the criminal complaint and the prosecution of the case.
- D. Once you have turned the check over to the District Attorney's Office please refer the person to our office if he/she wants to pay restitution and do not accept restitution.

IMPORTANT ISSUES REGARDING ISSUANCE OF WORTHLESS CHECKS

1. If the bank indicates possible forgery as the reason for returning the check, that check should be taken to the local police officials for investigation as this could constitute a felony. Under Wisconsin Statutes 943.24. the District Attorney's Office can only prosecute "insufficient funds" checks, "no account" checks, or "account closed" checks. Any check returned to you for any other reason including "payment stopped" checks, should be turned over to your collection agent or attorney.
2. Once the check is brought to the District Attorney's Office, the Assistant District Attorney is the one who will decide whether to prosecute or not to prosecute. Even if a person makes restitution to you, you CANNOT promise to withdraw or dismiss the charge. Full restitution is not a defense to a criminal charge. If, however, you accept partial restitution, or you have turned the matter into an installment contract no further criminal proceedings can be taken by the District Attorney's Office. Remember that the District Attorney's Office in many cases has checks from fellow merchants on the same individual and preventing prosecution by accepting partial restitution can be detrimental to your fellow merchants. NEVER accept partial restitution without calling the District Attorney's Office FIRST.
3. In order to successfully prosecute a person for issuing a worthless check, the person who accepted the worthless check must be able to identify the check and the individual passing said check.

4. Early referral is the most important factor in obtaining a successful prosecution. Checks **MUST BE** in the District Attorney's Office within 180 days after they are written.
5. The time and place of the crime of issuing a worthless check is where the check is **FIRST** delivered. Therefore, if you accept a two-party check the crime did not take place where you accepted it, but where the first party accepted the check. A good rule to follow is to not accept two-party checks.
6. Worthless checks for less than \$10.00 will not be prosecuted through this office because the cost of prosecution exceeds the value of the check. You may consider processing these through Small Claims Court.
7. Understand that other logistical challenges exist to prosecution of worthless check cases such as not being able to extradite individuals from other states for writing bad checks. Set smart policies for if and when and how you accept and process checks.

For more Guidance, please see our "Worthless Check Procedure" document.