

# INFORMATION FOR MERCHANTS REFERRING DISHONORED CHECKS TO THE PROSECUTOR'S OFFICE

## 1. THE PURPOSE OF THE PROGRAM

The Franklin County Prosecutor's Office Check Program is designed to prosecute people who fail to make good on dishonored checks that they write. We see this program as a cooperative effort between the Prosecutor's Office and the local merchants to combat the problem of bad checks being passed in Franklin County. This service is provided at no cost to you.

## 2. WHAT A MERCHANT NEEDS TO DO

- Each merchant needs to implement a sound policy for accepting checks as payment for goods and services.
  - a) Require Identification- Ask for a driver's license or other photo id.
  - b) Insist that the check writer sign the check in your presence
  - c) Record information on the check: The Prosecutor's office must have the check writer's **social security number or date of birth** in order to criminally pursue a bad check writer. (hint: all driver's license will have the date of birth on it).
  - d) Initial the check: Always have the person who is accepting the check initial the check in the upper left corner. In the event a criminal charge is issued we will need to know who actually accepted the check.
  - e) Don't be in a hurry: Bad check writers prefer to work during your busiest hours.
  - f) Compare the information: The information on the check (name, address, etc) should match that of the driver's license. Also compare the photo with the person writing the check.
- Do not accept checks when:
  - The check is postdated
  - The writer tells you it is not good, but will be good on a future date
  - Two-party checks
  - The check is drawn on an out of state bank.
  - The check is a starter check or temporary check

If you do, the writer cannot be prosecuted under Missouri Law

- If you find the check is returned to you for the reasons of **"Stop Payment"** or **"Forgery"** you will need to refer the matter to the local police department. They will conduct an investigation and if necessary submit the report to our office for review.
- After a check has been returned for insufficient funds or account closed you may turn it over to our office for collection. From our experience, we have found that it is best for you to turn these checks over to us as soon as possible. As a rule, the difficulty and time required for collection tends to increase with the age of the check. Businesses that turn their bad checks over to us within 4-6 weeks may expect to receive more collections in less time.

- Fill out a Bad Check Complaint Form for each check (even if it is the same check writer). The form must be accurate and complete and in most instances must be accompanied by a probable cause statement. Make a copy of the check and complaint form for YOUR RECORDS. The prosecutor's office will take possession of the original check and complaint form. Mail or bring the completed forms to our office as soon as possible. If you DO NOT want the maker of the check prosecuted, you should NOT submit the check to this office, but should consult your own attorney or private collection agency.
- DO NOT ACCEPT PAYMENT AFTER YOU HAVE TURNED IT OVER TO OUR OFFICE. If the check writer contacts you and wants to pay the check, you must refer them to our office. If you accept the payment, you will become responsible for paying the administrative handling fee charged by the prosecutor's office and/or could be subject to a civil action suit.
- By submitting complaint forms to our office, you and your employees are attesting that your full cooperation will be given in the event that charges are issued. This includes but is not limited to signing affidavits and appearing in court when necessary.

### 3. WHAT THE PROSECUTOR'S OFFICE WILL DO

- Upon receiving a completed form and probable cause statement (when applicable) the Prosecutor's office will send a letter notifying the check writer that we have the check and will provide him/her an opportunity to pay the check. If the check writer fails to pay the check the file will then be sent to the Assistant Prosecutor for REVIEW. If criminal charges are filed and the matter is set for trial, it will be necessary for your employee who received the check to appear at the trial. We cannot win a check case without the person who accepted the check.
- To retrieve the check, the offender must come to our office and pay for the check in full, including an administrative fee for our office.
- If a misdemeanor charge (\$25-\$499) is filed, the court issues a summons to the defendant ordering their appearance in court.
- If a felony charge is filed (\$500 and above), the court issues a warrant for the defendant's arrest.

#### **We will not prosecute checks in the following situations:**

- a. If the person who accepted the check is unknown, not available, or hasn't signed the complaint form prior to submitting it to our office. We will not let the person who accepted the check sign the form after it is received in our office. This must be done prior to submitting it.
- b. If the person who accepted the check cannot identify the check writer or did not verify the check writer's social security number or date of birth by a photo ID.
- c. If you do not have a social security number or date of birth for the check writer.
- d. If you have made an agreement to take partial payments on the check.
- e. If you have an agreement between parties to hold the check.
- f. If the check was not dated or was postdated.
- g. If the check is a two-party check.
- h. If the check is stamped "Uncollected Funds" or "Refer to Maker". These unpaid checks are civil matters under Missouri Law.
- i. If the check is drawn on an out of state bank.
- j. If the amount of the check is less than \$25.