

**CITY OF
FRIDLEY**

FRIDLEY MUNICIPAL CENTER - 6431 UNIVERSITY AVENUE N.E. FRIDLEY, MN 55432
TELEPHONE: (763) 572-3629 FAX: (763) 572-3651

FRIDLEY POLICE DEPARTMENT

CHECK FORGERY/DISHONORED CHECK INVESTIGATION DATA

The attached form is to be completely filled out in ALL FORGERY CASES, ACCOMPANIED BY THE ORIGINAL PROTECTED CHECK, SIGNED AFFIDAVIT OF FORGERY, AND COPIES OF ALL STORE REPORTS REGARDING THE FORGERY. Once this information is compiled, call 911 to make the complaint and give this information to the police officer responding to your call.

Please protect the check, i.e. zip lock bag or plastic cover of some type, so it can be viewed on both sides. The check is EVIDENCE. This should be done as soon as it is suspected as a forgery.

A separate form must be completed for EACH check.

Identification data is critically important. Please list, at the appropriate place, every possible item of identification information. The witness(es) may be shown a series of photographs or asked to attend a lineup which may or may not contain the individual who passed the check(s).

A sample affidavit of forgery is attached, if needed. The account owner must sign the completed affidavit form in the presence of a notary public after viewing the forged check. This is usually filled out at the account holder's banking institution.

STORE MANAGERS: Have the person who accepted the check fill in their portion of this form **AS SOON AS POSSIBLE**. Also, any other store employee who had a part in the transaction, i.e., sales person, dock worker, security personnel, etc. should fill out a questionnaire.

The attached questionnaire and affidavit of forgery forms can be used by you as a master copy. They may be photographed as you need them.

**FRIDLEY POLICE DEPARTMENT
CHECK DATA**

CASE # _____

COMPLAINANT/REPORTING PERSON:

Name and Title: _____ Date: _____
Business Name: _____ Phone: _____
Address: _____ City: _____ Zip: _____

EMPLOYEE ACCEPTING CHECK:

Full Name: _____ Date of Birth _____
Address: _____ Phone: _____

THIS PORTION TO BE FILLED OUT BY THE PERSON WHO ACCEPTED THE CHECK

Account Name: _____ Endorsee: _____
Account Address: _____
Check Payable to: _____ Check #: _____ Check Amount: \$ _____
Name of Bank Drawn on: _____ Check Date: _____

DESCRIPTION OF CHECK PRESENTER:

Race: _____ Sex: _____ Age: _____ Hgt: _____ Wgt: _____ Eye Color: _____
Hair: _____ Glasses: _____ Moustache/Beard: _____ Scars/Tattoos: _____
Describe any other relevant information regarding the presenter of the check(s): _____

Can you positively identify the party who signed and/or presented you the forged check? Yes No

DESCRIPTION OF CHECK PRESENTER COMPANIONS:

Race: _____ Sex: _____ Age: _____ Hgt: _____ Wgt: _____ Eye Color: _____
Hair: _____ Glasses: _____ Moustache/Beard: _____ Scars/Tattoos: _____
Other relevant information regarding the companion(s) of the check presenter: _____

Can you positively ID companion? Yes No

DESCRIPTION OF CHECK TRANSACTION:

Was check endorsed in your presence? Yes No Was transaction captured on videotape? Yes No
Identification requested: None Driver's license Other (describe) _____
Identification presented: Photo Non-photo Driver's License (State _____ DL# _____)
 None Other (describe): _____

Did photo on the ID match the presenter of check? Yes No

What merchandise or service did the presenter receive or attempt to receive? (Attach copy of transaction receipt if available): _____

List (and attach copies of) physical evidence you have of transaction (i.e., videotape, order forms, sales slips, inventory forms, etc.): _____

Describe vehicles that were involved (make/model/year/color/license number/etc.): _____

INTRODUCTION TO MINNESOTA DISHONORED CHECK LAW

It is a crime for any person to give a check for present consideration with the intent to defraud, knowing that he does not have an account or does not have sufficient money in his account to cover the check.

Intent to defraud may be proven by showing that the check-writer did not make the check good within five days after being notified in writing that the check was dishonored by his/her bank. Notice of dishonored check may be proven by a receipt for certified mail, or by regular first class mail, supported by an affidavit of service by mailing. The notice of dishonor can be mailed to the address appearing on the check.

Exceptions: The law does not apply to post-dated checks or to checks given for past consideration or in payment of an existing debt except for certain payroll checks.

PROSECUTION

A worthless check can be the basis of a criminal prosecution only if the particular facts constitutes a violation of the criminal law and if the prosecution is able to prove all the elements of the offense. Not every bad check can be the basis of criminal action; but one which cannot may nonetheless represent a legal obligation which can be collected in a civil lawsuit. The Fridley Police Department or the City Attorney has no authority to investigate or pursue matters strictly civil in nature. You will have to handle civil remedies yourself, or in consultation with your attorney. Bad checks given in payment of prior debt, post dated checks, and checks where the customer tells you to hold the check to another day before cashing it are not within the scope of the criminal law.

Checks will not be accepted for prosecution if:

- a. The Notice and Demand of Dishonest Check process has not been completed.
- b. The check was postdated;
- c. It was given to pay a pre-existing debt, such as a bill, rent, charge account, or note;
- d. It was given to pay a gambling debt;
- e. It was drawn on an out-of-state bank, unless the complainant will pay to bring the out-of-state bank's bookkeeper to court and will so state in writing;
- f. It was not presented to the bank in the due course of business, which is normally considered seven days from date of receipt;

- g. Partial payment has been accepted on the check;
- h. The complainant took the check and, at the request of the writer, held it for a period of time before cashing it;
- i. The complainant received the check in the mail;
- j. You, or your employees, can not identify the person who passed the check; or
- k. You did not determine the date of birth of the person who passed the check and the date of birth can not otherwise be determined.

MECHANICS OF FILING A WORTHLESS CHECK COMPLAINT

Present the check to the bank for payment, even if the check is known to be without sufficient funds to pay.

Complete the "Notice and Demand for Payment of Dishonored Check" form which is attached to these instructions. Mail it to the giver of the check by certified mail, return receipt requested or by regular mail supported by an "Affidavit of Service" (also attached) to the address printed on the check.

If you do not receive the money after five days and you are interested in prosecution, you may file a complaint with the City Prosecutor **(if the check(s) amount are less than \$500)** by taking the below listed items to his office:

Fridley City Prosecutor
Attention: David Brodie
Newquist and Ekstrum, Chtd.
6401 University Ave. N.E., Suite 301
Fridley, MN 55432
(763) 571-6870

- 1. The dishonored check;
- 2. Bank "flag" or other proof of dishonor;
- 3. The return receipt or the "Affidavit of Service by Mail" with a photo copy of the "Notice and Demand for Payment" attached; or if the letter has been refused, the unopened letter;
- 4. The name of the person who accepted the check and who can identify the giver.

You may file a complaint with the County Attorney (**If the amount of the check(s) are \$500 or greater**) by taking the above listed items to the Fridley Police Department:

Fridley Police Department
Attn: David Prois
6431 University Avenue N.E.
Fridley, MN 55432
(763) 571-3629

Once the prosecution is started, witnesses will be notified if it is necessary for them to appear in court. Witnesses will not be notified if the defendant pleads guilty, is convicted on other charges, or is never found.

SPECIAL PROBLEMS

Restitution

Neither the Police Department, the City Prosecutor's office, nor the County Attorney's office is a collection agency. Our purpose is to prosecute when criminal laws are violated. Ordinarily, we will seek restitution as part of a sentence following conviction. After prosecution is initiated, dismissal of the case is within the discretion of the prosecutor's office.

Under any circumstances, if you receive payment on a check after it has been presented to the City Prosecutor's office for prosecution, notify them immediately by letter.

Third Party Checks

As a general rule, third party checks may not be prosecuted unless the check is forged.

Stop Payment Checks

Checks on which the maker has placed a stop payment order with his bank usually cannot be the basis for prosecution. Exceptions to this rule are stop payment checks given in exchange for cash.

ALTERNATIVES TO PROSECUTION

Because prosecution is not a collection process, alternative methods of collection may be desirable. If a check has been through a clearing house twice and has been stamped "Do Not Redeposit", this does not mean that the check cannot be presented to the bank in person, or by mail, only that it cannot be processed through a clearing house again.

The bank which the check was drawn on may be contacted and the situation explained to them. Most banks will cooperate to help you collect the check.

The Anoka County Conciliation Court is another method of collection. For further information, please contact the Anoka County Court, (763) 422-7376.

You may want to consult your attorney concerning matters that cannot be prosecuted or collected by other means.

PREVENTION

An ounce of prevention . . . Worthless check losses represent a great cost to Anoka County merchants. Unfortunately, even when a case is successfully prosecuted, collection or restitution may be delayed for months or years. Perhaps the following guides will help reduce your losses:

- DO**
1. Require a completed check, with all items of information legibly filled, including the giver's address, date of birth, the complete date, and the same amount expressed in words and numbers.
 2. Require identification. A laminated Minnesota Driver's License with the color picture is good. Take the time to match the picture on the driver's license to the person presenting the check. Credit cards can be reliable, but they can also be stolen or forged and then used by professional check writers.
 3. Require that the check be signed in your presence. If the check is already endorsed, have it signed again in your presence and compare the signatures.
 4. Have your employees initial checks when they accept them. The chance of conviction is best when the person who accepted the checks can recall the face and appearance of the giver. A positive identification is essential in court.
 5. Take immediate action when a check bounces.

- DO NOT**
1. Hesitate to check identification and compare photographs with the person presenting the check.
 2. Cash checks when the customer's identification does not bear a specimen signature.

3. Accept an endorsement which varies from the person listed as the payee.
4. Honor a check which is illegible, or which has been tampered with as to the date, amount, etc.
5. Permit yourself to become flustered by the shopper who is in a rush.
6. Accept a check without ascertaining the customer's address, date of birth and drivers license or other I.D. number.

CONSIDERATIONS

1. Take checks only for the amount of the purchase.
2. Call the bank when in doubt. Be doubly cautious on week-ends and holidays; the professional knows the banks are closed.
3. Determine a policy under what circumstances you will agree to hold or accept a post-dated check.
4. Determine a policy on when to accept checks written on accounts from out of the area banks.

If you suspect someone of trying to obtain cash or merchandise with a forged or altered check, notify the Fridley Police immediately by calling 911. A complete description of the suspect including vehicle and license number, and any other information you have about him can be very valuable in the apprehension.

REMINDER

1. Out of state checks involve special problems.
2. Criminal prosecution is not a collection process, but the court may order restitution upon conviction.

NOTICE AND DEMAND FOR PAYMENT OF DISHONORED CHECK

dated _____, _____, drawn on the _____,
Bank of (town) _____, in the amount of \$ _____ has
been returned unpaid with the notation that payment has been refused because of: _____

DEMAND is hereby made for the payment of the above-mentioned check. Your attention is called to Minnesota Statutes 332.50 and 609.535 pertaining to the issuance of a worthless check, and **YOU ARE HEREBY NOTIFIED** that you may be subject to the following penalties under these statutes:

If you do not pay the amount of this check within five (5) days of the date the notice of dishonor was mailed to you, we will or may refer the matter to the proper authorities for prosecution under MN STATUTE 609.535, a violation of which is a crime punishable by imprisonment for not more than five years or to a payment of a fine of not more than \$10,000, or both, if the value of the dishonored check is more than \$500; or imprisonment for not more than one year or to a payment of a fine of not more than \$3000, or both, if the value of the dishonored check is more than \$250 but less than \$500; or to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, if the value of the dishonored check is not more than \$250. In a prosecution the value of dishonored checks issued by an individual within any six month period may be aggregated and the individual charged accordingly.

In addition the bank may release information relating to the account and this matter may be referred to the proper authorities for prosecution.

Dated: _____

Remit to: _____

Address: _____

AFFIDAVIT OF SERVICE BY MAIL

State of Minnesota

County of _____

The undersigned, _____, being duly sworn, says that on the _____ day of _____, _____ he served the annexed Notice and Demand for Payment of Dishonored check(s) on _____ by mailing him/her a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at _____, Minnesota to said person at _____, the last known address of said person.

[NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)]

Subscribed and sworn to before me this _____ day of _____, _____.

Signature of Notary