

PROCEDURES AND INSTRUCTIONS FOR REQUESTING
REVIEW OF "PASSING A BAD CHECK"

You recently contacted the Maumee Prosecutor's Office regarding the procedure for filing a criminal charge for the offense of "Passing a Bad Check." The nature of this offense usually involves a check that was not paid by the bank due to "insufficient funds" or where a check had been written on a closed account. Please understand this office does not formally investigate allegations of this nature, but instead will review the results of any law enforcement investigation and / or any information provided by you. If sufficient evidence exists to initiate criminal prosecution, this office will then authorize either you or the investigating law enforcement official to file a criminal complaint in the Maumee Municipal Court. Remember, there is no guarantee that you would fully recover the amount of the check if the person or business is criminally prosecuted.

To initiate the review of a "Passing a Bad Check" incident for criminal prosecution, you must complete the steps set forth on the attached page. Upon completion, you must contact this office and request an appointment with a prosecutor who will then review the matter and decide whether to initiate prosecution.

If this office subsequently authorizes a criminal charge, you will be expected to participate in the prosecution. You will likely be subpoenaed to attend a pre-trial conference at the prosecutor's office and if the matter cannot be resolved, then you will be subpoenaed to appear for trial. Your failure to cooperate with this office or disregard of a subpoena could result in the charge being dismissed, and as a result, no restitution be recovered.

Once a criminal charge is authorized by this office and filed in the municipal court, do not believe the case will automatically be dismissed simply because the Defendant subsequently makes full restitution to you, the victim. This office recognizes that recovery of the amount of the check is paramount to all victims. Victims frequently accept payment on the "bad check" and then advise this office that they no longer wish to prosecute since they "got paid." The initiation of criminal prosecution and the responsibilities therewith must be taken seriously by everyone involved in the prosecution. As such, once criminal prosecution and to prevent the criminal justice system from being used as a "collection agency," you are instructed to not accept restitution unless ordered to do so by the Maumee Prosecutor's Office, the Judge of the Maumee Municipal Court or the Maumee Probation Department.

If you have any questions during or after your completion of the attached procedures, please contact this office at (419) 897-7085.

INSTRUCTIONS AND REQUIREMENTS

Before this office will review the matter for possible criminal prosecution, it is your responsibility to complete the following steps and to maintain a complete and an accurate file of the below requested items. Please note, that for an insufficient funds (NSF) check, it must have been presented for payment within 30 days after it was received, and restitution for the check must not have been accepted in whole or part. For a check written on a closed account, it must have been closed at the time of issue or the stated date, whichever is later.

- _____ 1. File a police report with the law enforcement agency that serves the area where the check was written or received by you. Obtain a copy of the report and place it in your file.
- _____ 2. Make a copy of the returned check and put it in your file. Maintain the original check in a safe place unless it is retained by law enforcement.
- _____ 3. Send two identical letters to the suspect person or business requesting payment in full within 10 days. A sample letter is attached. One copy should be sent by United States certified mail, with return receipt requested. The second copy should be sent by ordinary United States mail with a certificate of mailing. Keep a copy of the letter for your file as well as the returned certified receipt card and certificate of mailing.
- _____ 4. In addition to sending the letter, contact the suspect person or business by phone and demand payment within 10 days. If unsuccessful, attempt at least 3 times. Keep a log of your calls in your file. The log should include the dates and times of your calls and who you spoke with, if anyone.
- _____ 5. Establishing the identification of the person who had passed the check is critically important to this office's decision whether to authorize prosecution.
 - a. Provide the name and address of the person who accepted the check from the suspect person or business.
 - b. Did the person accepting the check request identification from the person who wrote and tendered the check?
 - i. If so, what form of identification was tendered - driver's license?
 - ii. Was any personal information such as a driver's license number, a social security number, or date of birth, recorded on the check by the person who had accepted it?
 - c. If identification was not requested, did the person accepting the check know the person who presented it as payment? If so, what is their relationship?

10 Day Sample Demand Letter

Date

Dear _____

Please be advised that your check, number _____, drawn on the _____ (name of bank), account number _____, in the amount of _____, dated _____, has been returned to _____ (name of person or business holding check) after presentation for payment, due to _____ (pick one: insufficient funds or the account being closed).

If payment is not made within 10 days of your receipt of this letter, you are hereby notified that this matter will be referred to law enforcement or the Maumee Prosecutor's Office for review and determination whether criminal prosecution could be initiated. Please contact the undersigned regarding this check.

Sincerely,

NAME
ADDRESS
PHONE NUMBER

