



**MORRISON COUNTY**

"HOME OF LINDBERGH"

# **Morrison County Attorney's Office**

**A GUIDE FOR ACCEPTING CHECKS &  
RESTITUTION FOR WORTHLESS CHECKS**

## **SIGNAGE**

The following signage is required by Minnesota law to allow merchants to enforce collection of service charges and civil penalties. This must be posted where your customers can see the service charge at the time the check is accepted by the merchant. Copy as needed.

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# **IT'S AGAINST THE LAW TO WRITE A BAD CHECK IN MINNESOTA**

**Checks returned to us for  
nonpayment are subject to  
a service charge of**

**\$30**

Additional civil penalty may be imposed  
on checks returned for nonpayment after  
30 days.

## **CHECK ACCEPTANCE PROCEDURES**

The two most important things when accepting a check is 1) proving the identity of the check issuer and 2) having a way of contacting the person, if the check is dishonored. Therefore, the following procedures should be followed, in order for the county attorney's office to accept the check for the program:

1. Ask to see a government issued photo identification, typically a driver's license.
2. Compare the issuer's physical appearance to the photo on the identification. If the appearance does not match, the check should be declined.
3. Record the following information about the issuer on the check, unless it is printed on the face of the check: name, home address, and phone number.
4. Write down the issuer's date of birth on the check, unless it is already printed on the check.
5. Write down the government issued identification card number (typically a driver's license number) onto the check
6. Check the signatures on the identification card and match this signature to the signature on the check (endorsement line). If these signatures do not match, acceptance should be declined.
7. The employee should initial the check to indicate compliance with these requirements

## **CHECKS ELIGIBLE FOR THE PROGRAM**

- Checks received within Morrison County
- NSF, Account Closed, Refer to Maker, Stop Payment, and Electronic Checks received that do not exceed \$1,000.

**If your check exceeds \$1,000, please bring directly to law enforcement for your jurisdiction (either your city police department or the county sheriff).**

- Worthless checks LESS than 120 days old from the date issued by the check writer.  
(Exception: first time program users can send checks up to 2 years old)

## **CHECKS NOT ELIGIBLE FOR THE PROGRAM**

- **Promissory notes and/or arrangement to hold the check for deposit or credit extensions**
- **Postdated Checks**
- **A check given for past consideration**
- **Second party checks**
- **Checks that are currently in collections by a collection agency or attorney (law firm)**  
(checks can be forwarded to check diversion program after agency has sent them back)

## **STEPS TO FILING A COMPLAINT FORM**

Minnesota Statutes require that the holder of dishonored check inform the writer of a bad check that the check has been returned for non-sufficient funds. There are specific forms that need to be sent to the writer of the check to place him/her on notice of the bad check. Attached to these instructions, please find copies of the forms that you will have to send to the writer of the check, along with a COPY of their check. One form is the Notice and Demand; this gives the writer five days in order to correct the problem. The second is an Affidavit of Mailing; this is to prove that you have, in fact, notified the author of the check of the problem. The forms are constructed so that you can merely photocopy them and fill in the appropriate blanks. After you have filled out the forms, you need to keep a copy of what you have sent, so you can prove notice has been sent.

1. Send a notice and demand for payment of dishonored check form to the issuer (page 6) and wait at least five (5) business days. If no payment is received, then go on to the next step.
2. Fill out the Worthless Check Report, attach a copy of the check and mail it to:

Morrison County Attorney's Office  
213 SE 1<sup>st</sup> Avenue  
Little Falls, MN 56345

### **IF YOU ARE A VICTIM OF THE FOLLOWING CHECKS** **CONTACT YOUR LOCAL POLICE DEPARTMENT OR SHERIFF'S OFFICE** **IMMEDIATELY**

- Counterfeit check(s)
- Altered checks
- Forged checks of any amount
- Checking account opened using fraudulent information
- Stolen checks

# WORTHLESS CHECK REPORT

(attach a copy of the check)

Mail to: Morrison County Attorney's Office  
213 SE 1<sup>st</sup> Avenue  
Little Falls, MN 56345

VICTIM OR FIRM NAME	ADDRESS	BANK FEE PER CHECK
PERSON FILING COMPLAINT	CITY, STATE, ZIP CODE	BUSINESS PHONE (      )
SUSPECT COMPARED WITH ID?  YES  NO	EMAIL ADDRESS	BUSINESS FAX (      )
CAN EMPLOYEE/INDIVIDUAL WHO ACCEPTED THE CHECK IDENTIFY THE CHECK WRITER BY PHOTO LINE UP OR IN PERSON? (Please circle yes or no)	YES	NO
NAME OF EMPLOYEE/CHECK ACCEPTOR	NAME OF ADDITIONAL WITNESS	
PHONE NUMBER	PHONE NUMBER	
ADDRESS	ADDRESS	
DOB	DOB	
DO YOU HAVE VIDEO RECORDING OF CUSTOMER?  YES (If it is still available, please make still images and attach to form)  NO		
PHONE CALL DATES (if you attempted to call the issuer):		
COMMENTS:		

The check(s) in question is (are) submitted for criminal prosecution. By submitting this check(s) for prosecution, I agree NOT to accept  
restitution from the suspect or his/her agent. I certify that this report is true, accurate and complete to the best of my knowledge.

**NOTICE AND DEMAND FOR PAYMENT OF DISHONORED CHECK(S)**

\_\_\_\_\_, you are hereby notified, pursuant to Minn. Stat. §609.535, Subd. 3, that check no(s), \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_\_, drawn on the \_\_\_\_\_ Bank of \_\_\_\_\_ (city and state), in the amount of \$ \_\_\_\_\_, bearing the signature of \_\_\_\_\_, and payable to the order of \_\_\_\_\_, has been returned unpaid with the notation that payment has been refused because of \_\_\_\_\_.

Unless this check is paid in full within five (5) business days after mailing of this notice, the payee or holder of the check will refer the matter to proper authorities for prosecution, and the drawee (the bank) may release information relating to the account to the payee or holder of the check.

**REMIT PAYMENT IN THE AMOUNT OF \$ \_\_\_\_\_**

TO: \_\_\_\_\_

\_\_\_\_\_ (address)

\_\_\_\_\_ (city and state)

**AFFIDAVIT OF MAILING**

STATE OF MINNESOTA )  
                          ) ss.  
COUNTY OF MORRISON )

\_\_\_\_\_ of the City of \_\_\_\_\_, County of Morrison, State of Minnesota, being duly sworn, states that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, (s)he served the annexed Notice and Demand for Payment of Dishonored Check(s) on \_\_\_\_\_, by mailing to \_\_\_\_\_, enclosed in an envelope, first class postage paid, and by depositing the same in the post office at the address printed on the check or the last known address.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Minn. Stat. 609.535 - ISSUANCE OF DISHONORED CHECKS.**

**Subdivision 1. Definitions.** For the purpose of this section, the following terms have the meanings given them.

- (a) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.
- (b) "Credit" means an arrangement or understanding with the drawee for the payment of a check.

**Subd. 2. Acts constituting.** Whoever issues a check which, at the time of issuance, the issuer intends shall not be paid, is guilty of issuing a dishonored check and may be sentenced as provided in subdivision 2a. In addition, restitution may be ordered by the court.

**Subd. 2a. Penalties.** (a) A person who is convicted of issuing a dishonored check under subdivision 2 may be sentenced as follows: (1) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than \$500; (2) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than \$250 but not more than \$500; or (3) to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is not more than \$250.

(b) In a prosecution under this subdivision, the value of dishonored checks issued by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the dishonored checks was issued for all of the offenses aggregated under this paragraph.

### **Subd. 3. Proof of intent.**

Any of the following is evidence sufficient to sustain a finding that the person at the time the person issued the check intended it should not be paid:

(1) proof that, at the time of issuance, the issuer did not have an account with the drawee;

(2) proof that, at the time of issuance, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision; or

(3) proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision.

Notice of nonpayment or dishonor that includes a citation to and a description of the penalties in this section shall be sent by the payee or holder of the check to the maker or drawer by certified mail, return receipt requested, or by regular mail, supported by an affidavit of service by mailing, to the address printed on the check. Refusal by the maker or drawer of the check to accept certified mail notice or failure to claim certified or regular mail notice is not a defense that notice was not received.

The notice may state that unless the check is paid in full within five business days after mailing of the notice of nonpayment or dishonor, the payee or holder of the check will or may refer the matter to proper authorities for prosecution under this section.

An affidavit of service by mailing shall be retained by the payee or holder of the check.