



Office Of
KOOCHICHING COUNTY ATTORNEY

The following policy has been developed by the Koochiching County Attorney's Office in order to use the criminal process effectively and efficiently in response to the receipt of dishonored checks. The policy was developed to address various concerns, including economic burden borne by prosecutors, law enforcement agencies, the court system and the taxpayers, as compared to the amount of money involved and the seriousness of the crime.

The policy is intended to encourage businesses to establish a procedure for accepting checks which will assure the identification and successful prosecution of the writer, as well as increase the likelihood of collecting restitution. It is incumbent upon all of us to take the matter seriously and be ready to follow through on prosecution. Because the criminal process is **not** intended as, or developed to be, a collection device, the policy was created to focus increased attention on the most serious offenders.

1. Criminal complaints will not be drawn on a check totaling less than \$20.00. Consideration will be given to situations where multiple checks are received from different merchants from the same individual totaling at least \$20.00.
2. Criminal complaints will not be drawn on checks that are more than ninety (90) days old.
3. The check recipient will need to obtain a bad check packet from Leslie Pullar at the County Attorney's Office. This packet will include a Complaint form and Notice of Non-Payment or Dishonor. These forms will need to be completed and returned to the prosecuting authority, along with the original check and proof of mailing.
4. No third party checks will be prosecuted under this policy.
5. Criminal complaints will not be drawn upon checks that have not been signed in the presence of the person accepting the check.
6. Criminal complaints will not be drawn upon checks that do not have the current name and address of the person writing the check, this includes middle name and date of birth. If the person's name or address has changed, the person accepting the check must make the correction on the face of the check.
7. Criminal complaints will not be drawn upon checks that are not clearly initialed by the person accepting the check.

8. Criminal prosecution does not apply to postdated checks. Postdated checks are checks with a date in advance of the date the check is cashed.
9. The prosecuting authority shall consider, when making a charging determination, whether the person accepting the check requested formal identification and whether the identification number was written on the check.
 - a. If the Notice of Nonpayment or Dishonor required under paragraph 3 of this Policy has been returned to the business as undeliverable or the like, and the business did not request formal identification and make any necessary changes to the writer's name and/or address, the prosecuting authority may decline to pursue the matter.
10. Once a criminal complaint is drawn, the victim agrees to follow through with prosecution, even if the check is made good.
 - a. If a victim attempts to back out of a prosecution, such action will be considered in any future charging decisions and may be reason in and of itself to decline to issue charges.
11. In any situation where the above policies would not call for prosecution, the business may contact the prosecuting authority if the business feels there are any unusual circumstances present which would create an exception to the policy.
12. In the event a criminal complaint is not issued, the original check and accompanying documents will be returned to the business.
13. In the event a criminal complaint is not issued, the business retains the ability to commence a civil action in either conciliation or District Court.
14. Once the Koochiching County Attorney's Office receives a completed packet, that meets all of the requirements, a letter will be sent to the check writer. This letter provides an additional 14 days to remit full payment, including service fees, to the Koochiching County Attorney's Office. If full payment is not made, a criminal complaint will issue. If payment is received by the Koochiching County Attorney's Office, the certified check or money order will be forwarded to the victim.
15. In addition to being required to pay the full amount of the check and service fee, the check writer will be required to pay Koochiching County an additional \$25 administration fee.

If there are any questions regarding the policy, please feel free to contact Leslie Pullar at the Koochiching County Attorney's Office.