

MILLINOCKET POLICE DEPARTMENT



This information booklet is being provided to explain procedures to be followed in a bad check case. These procedures have not changed recently, but there have been changes in the law concerning court ordered restitution, so some additional information on small claims procedures has been included.

Due to recent decisions in the Maine Supreme Judicial Court, judges cannot order restitution in criminal cases where the defendant cannot afford to pay restitution. In some cases this means that the business has to absorb the loss in a bad check case. In other cases there may be a remedy through civil action or through small claims.

Information on civil lawsuit cases should be obtained by the individual business from an attorney. Information on small claims procedures is enclosed in this information booklet. More information on small claims procedure can be obtained from the Clerk of the District Court.

It has been the policy of the Millinocket Police Department to request restitution in bad check cases. We will still continue with this policy, but in light of the recent law court decisions on restitution, we encourage local businesses to pursue these bad debts through civil cases or small claims if the courts fail to order restitution in the criminal case.

STATE OF MAINE
OFFICE OF THE DISTRICT ATTORNEY
PROSECUTORIAL DISTRICT V

R. CHRISTOPHER ALMY
District Attorney

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(207) 564-2181
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PENOBSCOT COUNTY
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Thank you for reporting your bad check case to the police. We will do our best to prosecute the offender and recover restitution.

In order to be successful, we need to find the offender. To find the offender, we need to know the person's name, correct address, phone number, and date of birth. When you accept checks please obtain valid identification (picture identification is preferred) from the customer and record the information on the check.

A handwritten signature in cursive script that reads 'R. Christopher Almy'.

R. Christopher Almy
District Attorney

**DATA SHEET
NSF/ACCOUNT CLOSED CHECKS**

INSTRUCTIONS

1. Checks older than 120 days will not be accepted for prosecution.
2. Checks are accepted for criminal prosecution only and are not returned if prosecution is initiated.
3. This entire report must be completed legibly. Please print or type.
4. Checks stamped "closed account" or "account closed" will be accepted with this form, but will not result in prosecution unless subsequent police investigation shows that the passer knew the account was closed.
5. Post dated checks, or checks that you agreed to hold before depositing will not be prosecuted.
6. A 5-day statutory demand notice must be sent to the passer in each check case by certified mail with restricted delivery to addressee only. In the event it is a company check, the agent for the company may sign. In addition, you should attempt to make personal "face to face" contact with the passer concerning the check, and document your efforts. Do not submit a check in this form for possible prosecution unless you are satisfied that the passer intended to defraud you, and that you would participate in prosecution even if the passer attempted to pay off the check at some future date. Use only (1) report form for each check submitted.
7. Submit with this form the original check, a copy of the bad check notice you sent and the post office receipt return showing its delivery or non-delivery.
8. This form must be signed by the person in position of responsibility, e.g., manager, cashier, owner, etc.
9. Please return this form and the required documentation to the law enforcement office from which it was originally obtained.

REPORT

A.

1. Your business name and address: _____
2. Person making report: _____
3. Have you successfully served a 5-day statutory bad check notice on the passer?
Yes No If yes, how? Certified mail, personal service.
If not served, the reason why: _____

B. Check Information

1. Check number: _____ Date check was accepted: _____
Amount of check: _____
2. Name of the person who presented the check:

C. The person who actually took the check must complete the next section.

1. Your name: _____ DOB: _____
2. Description of the person passing the check: _____

3. Name given by the passer: _____
Address and Phone Number: _____
4. Did you know the passer? Yes No If yes, how?

5. Can you identify the passer? Yes No If yes, how? _____

6. Did you see the passer write the check and/or endorse the check? Yes No

7. Did you initial, mark upon or write upon the check at the time you accepted it?

Yes No If yes, what? _____

D. To be completed by the person making the report.

1. Please explain what steps you or your employees have taken to contact the suspect and/or recover your losses.

NOTE:

Please indicate anything on the reverse side of this form that you feel would help in locating and prosecuting this person.

The decision whether or not to prosecute this individual will be made by a representative of the District Attorney's Office who will take into account numerous factors including what evidence exists of intent to defraud, and the availability of necessary bank records. Criminal prosecution does not guarantee restitution as prosecution is designed to punish, not to collect debts. If you agree to prosecute this defendant you cannot drop the charge if he/she offers to pay the check. If a criminal case cannot be proven, the check will be returned to you upon request.

I hereby understand and agree that all the information contained in this document is to be used by and disseminated among all law enforcement agencies, the Office of the District Attorney and the Court. I also understand and agree that this check is being submitted for criminal prosecution and that if criminal prosecution is instituted, it will be necessary for those persons having knowledge of the facts to appear and testify in court.

I hereby certify that no one has accepted full or partial restitution for this particular check as of this date, and I further agree **NOT TO ACCEPT RESTITUTION WITHOUT NOTIFYING** the victim/witness coordinator at the Office of the District Attorney.

I hereby certify that I have read and understand the directions for this form and that all of the facts herein are to the best of my knowledge, true, accurate and complete.

Date: _____

Signature

Date:

From:

To:

Dear

Your check # _____, dated _____, drawn on account number _____ at the _____, has been returned marked (insufficient funds) (account closed). You have five (5) days from the receipt of this letter to make this check good. This can be done by making the necessary arrangements with the bank or by paying this check, cash in hand.

Failure to make this check good leaves no alternative but to turn it over to the District Attorney's Office for prosecution under state status.

Sincerely.