

CHECK ELIGIBILITY REQUIREMENTS

Please review the following **eligibility requirements** before submitting your Bad Check Report Packet for review.

A check is Eligible if...

- The check was received in Tippecanoe County, deposited in a bank in exchange for goods or services and was presumed "good" at the time of acceptance.
- A 10-Day Notice Letter was sent to check writer allowing an opportunity to make the check good.
- The person writing the check is identified by more than just their name. *The courts will not accept charges without proper identification.*

- ✓ Date of Birth – **required**
- ✓ Complete Mailing Address - **required**

AND at least one of the following:

- ✓ Driver's License or State issued ID Card number
- ✓ Social Security number

It is our recommendation that your practices include not accepting a check without this information written on the check. However, we understand that relationships exist where the writer is known to you and you have other means of getting this information (IE: you had it on file from previous business dealings). You will be attesting under penalty of perjury that you have provided accurate information.

A check is not Eligible if it is a ...

- Post Dated Check.
- STOP Payment Check.
- Third party Check.
- Check accepted when both parties knew there were insufficient funds at the time of acceptance.
- Check which was written as partial payment of an existing contractual obligation, such as rent, an installment payment plan, a promissory note, loan, or verbal agreement. These matters are more appropriately handled in civil court.
- Check was not received in Tippecanoe County.
- Check which you agreed to hold before depositing.
- Check without sufficient Information to identify the check writer or the amount of the check.
- Check for which partial restitution/payment has been received.
- Check which has been sent to a private collection agency for collection.
- Check is issued from a business

Only cases with eligible checks will be reviewed for possible criminal charges.

Bad Check Recovery Process

The following STEPS should be done before the Tippecanoe County Prosecutor's Office can take action:

STEP 1: CONTACT THE CHECK WRITER

When you receive a bad check we strongly encourage you to contact the check writer personally. If the check writer offers to make restitution, inform them of the full amount you are owed. This is the amount of the check and any costs your bank charged for the returned check. We suggest that you accept only cash, a certified check, or a money order for restitution.

If the check writer fails to make restitution then the next step is to mail a Notice Letter to the check writer requesting payment within ten (10) days from the date of mailing your letter. A sample form for this Notice Letter is attached.

STEP 2: SEND 10 DAY NOTICE LETTER

The Notice Letter must be sent by Certified Mail with a Return Receipt Requested. You need a certified Notice letter for each check. The Notice Letter should be sent to the address printed on the check or the address given by the person in writing to the payee at the time the check was delivered.

If the check writer does not pay restitution within ten days of your Notice Letter, you may complete a Bad Check Report and forward it to our office. Before the State can file a criminal charge, a deputy prosecutor must review and find that each and every element of Check Deception, a Class A Misdemeanor under Indiana Code 35-43-5-5, can be proven beyond a reasonable doubt.

If you are unable to provide all of the information requested, the State cannot file a criminal charge.

Review the requirements carefully!

STEP 3: COMPLETE THE BAD CHECK REPORT:

The Bad Check Report Packet must include:

- Completed **Bad Check Complaint Form** (3 pages).
- The original Bad Check or a Bank Certified Copy. (Photo copies will not be accepted.)
- The Bank Notice of a service charge for the return of the check, if any.
- A copy of the 10 Day Notice Letter that you mailed. However, if the letter was returned, then you must include the **UNOPENED** letter. It is important that the returned envelope remain sealed.
- The original white receipt for Certified Mail and the green Return Receipt from the Post Office.
- A DVD/CDR/Thumb Drive containing copies of any photographs or video recorded at the time the check was presented and accepted. The media will not be returned.
- The signed **Affidavit in Support of Probable Cause Form**.

Additional Information

You should retain copies of all materials which you send to our office for your records.

When we receive the Bad Check Report it will be reviewed to determine if a criminal charge can be filed. This process may take several weeks. During this period you may be contacted for additional information by a staff member.

Based upon the attorney's review, we may send a letter advising first time offenders that they can avoid prosecution by making immediate restitution for the check. Or we may immediately file the case if we have seen the individual before. However we proceed, you will receive a copy of the action we take.

If we send a letter to the check writer please notify our office immediately if you receive restitution for the bad check so that we can close our file on this matter. Remember to be careful about accepting a partial payment as a partial payment prevents us from prosecuting the individual check writer.

You will be attesting on paper and possibly in court that the information you are providing is true and accurate. You should not guess or speculate as to things you do not know as it will diminish your credibility and truthfulness.

Send the completed Bad Check Report and all supporting documents to:

Mail to:

**Tippecanoe County Prosecutor's Office
Attn: Bad Check Program
111 n 4th St.
Lafayette, IN 47901**

OR

Hand Deliver to:

**Tippecanoe County Office Building Extension
2nd Floor, Prosecutor's Office
111 N 4th St.
Lafayette, IN 47901**

BAD CHECK COMPLAINT FORM

The following form must be completely filled out for each check submitted to the prosecuting attorney's office. Each blank must be answered. If the answer is not known, write "unknown" or "none." The person (whether individual, partnership, company, corporation, etc.) receiving the check is known as the complainant. This form must be signed by the complainant receiving the check or his authorized agent.

1. Complainant/Victim Information (Individual/Business Entity Accepting the Check)

Name: _____

Address: _____

Phone number: _____ Email Address _____

Relationship to victim: _____

2. Suspect Information: (Individual who presented the Bad Check)

Name: _____

Address: _____

Phone number: _____ Email Address _____

3. How was Suspect identified? Check all that apply and give details.

Date of birth: _____

License/ID #: _____ State ____ Verbal Card Office Record

Social Security #: _____ Verbal Card Office Record

Suspect previously known to Complainant or Witnesses? How? _____

 Photographic or Video Surveillance? Please Provide Copy and Maintain Original.

Suspect has given any check(s) to the complainant before. Describe: _____

Were previous check(s) dishonored by the bank when presented? _____, If so give details: _____

4. Payer #2 Information (i.e. two people signed the check) [] Check if Not Present

Name: _____

Address: _____

Phone number: _____ Email Address _____

5. How was Payer #2 identified? If applicable, check all that apply and give details.

Date of birth: _____

License/ID #: _____ State ____ Verbal Card Office Record

Social Security #: _____ Verbal Card Office Record

Suspect previously known to Complainant or Witnesses? How? _____

 Photographic or Video Surveillance? Please Provide Copy and Maintain Original.

Suspect has given any check(s) to the complainant before. Describe: _____

Were previous check(s) dishonored by the bank when presented? _____, If so give details: _____

6. Additional Witnesses

Identifying Witness Information: Individual/Employee who accepted the bad check.

Name: _____

Address: _____

Phone number: _____ Email Address _____

Relationship to victim: _____

Can Identify Suspect: ()Yes ()No

Photo/Video Foundation Witnesses: Individuals/Employees who copied the photos/video

Name: _____

Address: _____

Phone number: _____ Email Address _____

Relationship to victim: _____

Can Identify Suspect: ()Yes ()No

Additional Witnesses:

Name: _____

Address: _____

Phone number: _____ Email Address _____

Relationship to victim: _____

Can Identify Suspect: ()Yes ()No

7. Check Information

Check #: _____ Date: _____ Amount \$ _____

Account number: _____

Name of Bank/Credit Union: _____

Address: _____

Date first presented to Bank/Credit Union for payment: _____

Reason check was refused by Bank/Credit Union: _____

Number of times check was presented to Bank/Credit Union for payment: _____

I swear or affirm under penalty of perjury as specified by IC 35-44-2-1, that the above information is true to the best of my knowledge and belief. I will testify in court whether the check is ultimately made good (by payment) or not.

COMPLAINANT/VICTIM (*Signature*)

Printed Name

STATE OF INDIANA)
) SS:
COUNTY OF TIPPECANOE)
)
STATE OF INDIANA)
)
V.)
)
)
)
_____)
(Print name of Suspect)

IN THE SUPERIOR COURT 5
OF TIPPECANOE COUNTY

CAUSE # 79D05 _____
(Leave Blank)

Complainant: _____
(Name of business or individual who received check)

AFFIDAVIT TO SHOW PROBABLE CAUSE

COMES NOW _____ the undersigned Affiant, who first
(Print Your Name)
being duly sworn upon his/her oath states:

1. Affiant is an adult person who has personal knowledge and is competent to testify as to the matters stated herein.

2. Affiant is the individual, or the authorized representative of that business, located in Tippecanoe County, Indiana, known as _____
(Print name of business or individual who received check)

3. On _____, 20____, _____ (Affiant or authorized
(Date of check) (Print Name of individual/employee who accepted the check)
Representative of Affiant) accepted from _____ who presented
(Print name of Suspect)
check # _____, drawn upon Account # _____ of the following financial
institution, to wit: _____
(Print the name of the Bank, Credit Union, etc. on the check)

4. Said check was deposited by said individual or business and was returned by said drawee bank, for the reason stated on such check, to wit: _____
(Enter reason check was returned: NSF, Closed Account, etc.)

5. A letter was sent to the Defendant on _____, 201____ by certified mail, RRR,
(Date)
Receipt # _____, notifying them that said check was not honored and
requesting payment within ten (10) days. Copies of the letter and receipt are attached.

6. The check amount was not paid within the 10 day period.

Affiant does swear or affirm under penalty of perjury as specified by IC 35-44-2-1, that the foregoing statements are true to the best of Affiant's knowledge and belief.

Date _____

Affiant Signature _____

STATE OF INDIANA)
) SS:
COUNTY OF TIPPECANOE)
)
STATE OF INDIANA)
)
V.)
)
_____))
(Print name of Suspect))
Address: _____))
City, State: _____))
Suspect Date of Birth: _____))
() License # () SSN: _____))

IN THE SUPERIOR COURT 5
OF TIPPECANOE COUNTY
CAUSE NO.79D05-_____

Information of Check Deception
I.C. 35-43-5-5 (Class A Misdemeanor)

The Prosecuting Attorney for the Twenty-third Judicial Circuit of the State of Indiana informs that:

On or about the _____, 20__ in Tippecanoe County, State of Indiana,
(Date of check)
_____, did knowingly and intentionally issue or deliver a check, draft, or an
(Print name of suspect)
order on a credit institution, to wit: _____, for the payment of or to
(Print name of Bank, Credit Union, etc. on the check)
acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business.

All of which is contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

PATRICK HARRINGTON
Prosecuting Attorney for the
23rd Judicial Circuit

BY: _____
Deputy Prosecuting Attorney
Attorney No. _____

Affiant does swear or affirm, under penalty of perjury as specified by Indiana Code 35-44-2-1, that the foregoing representations are true to the best of Affiant's knowledge and belief.

Executed on _____
(Today's Date)

Signed _____
(Your Signature)

STATE'S WITNESSES:

(Your name, name of each Additional Witness from Bad Check form #6)

SAMPLE 10 Day Notice Letter

Mailing Date: _____

Total Amount Due: \$ _____

To: Name
Address
City

RE: Ten Day Notice

Dear _____:

This Notice is to advise you that a check you delivered to the undersigned was returned and not paid:

CHECK DESCRIPTION

Check No. _____ Date: _____ Amount: _____

Bank Name: _____ Reason for Nonpayment _____

Penalty or Protest Fee Charged to My Account: _____

Please make arrangements to pay the sum of \$ _____, (the face amount of the check and the penalty or protest fees charged) within ten (10) days of the mailing date of this Notice. Payment must be made in cash, certified check, or money order to the individual at the address stated below.

I.C. 35-43-5-5 provides that a person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is (1) a Level 6 felony if the amount of the check is at least \$750 and less than \$50,000.

The penalty upon conviction of a Class A Misdemeanor is up to one (1) year in jail or a fine of up to \$5,000 or both. The penalty upon conviction of a Level 6 felony is up to two and one half (2.5) years in prison or a fine of up to \$10,000 or both.

THIS IS THE LAST NOTICE YOU WILL RECEIVE FROM THE UNDERSIGNED.

PAYMENT MUST BE MADE IN CASH, CERTIFIED CHECK, OR MONEY ORDER

Sincerely,

Name
Address