

ONEIDA COUNTY DISTRICT ATTORNEY

WORTHLESS CHECK DIVERSION PROGRAM

RESTITUTION GUIDE FOR
MERCHANTS AND RESIDENTS

DISTRICT ATTORNEY
ONEIDA COUNTY
Michael H. Bloom

Dear Oneida County Merchants and Residents:

As consumers and taxpayers, we all pay higher prices because of the losses associated with people issuing worthless checks. Our office and law enforcement spend significant resources investigating and prosecuting people who issue worthless checks. Along with this, the number of worthless check cases increases every year.

In response to concerns regarding worthless checks, my office and your local law enforcement, in conjunction with Financial Crimes Services (FCS) have implemented a worthless check diversion program.

The main goals of the program are:

- Restitution for victims
- Increase accountability of people who issue worthless checks
- Educate and assist Oneida County merchants and residents in reducing the number of worthless checks written
- Reduce the costs for investigating and prosecuting worthless check cases

The program is at no cost to the taxpayer or area merchants. It is solely supported by the people who issue the worthless checks.

If you have further questions after reviewing this packet, please contact the Financial Crimes Services, Inc. (FCS) check diversion program at 1-800-906-8182.

Very truly yours,

Michael H. Bloom
Oneida County District Attorney

INTRODUCTION

The worthless check diversion program has four main goals. They are:

- Increase the amount of restitution returned to victims of bad checks
- Increase the accountability of all worthless check writers, regardless of the amount of the check
- Promote to local merchants more effective check acceptance and protection procedures
- Reduce the risk of repeat worthless check activity through proper training

Program Summary

The diversion program process is as follows:

1. Checks are entered into the FCS system.
2. Check writers are contacted by the FCS diversion program regarding the checks. Three scenarios are then possible:
 - A. Check writer pays the Check Diversion Program - 100% of the face value of the check is returned to the merchant plus bank fees if paid.
 - B. Offender completes a financial counseling program offered by the Check Diversion Program.
 - C. Check writer fails to pay – the check is sent for prosecution review and proceedings.
 - D. If check is not at prosecutable limit, check writer is red flagged. The system will then notify the Oneida District Attorney's Office if more checks are entered and prosecution review is done again.

Checks eligible for the Program

- Checks or other orders of payment falling under the statutory definition as set forth in Wisconsin Statute 943.24.
If your check exceeds \$2500.00 please report to law enforcement.
Rent checks up to \$1000.00
- NSF, Account Closed, Refer to Maker, Stop Payment, Business to Business, rent
- Worthless checks LESS THAN 120 DAYS from the date issued by the check writer.

Checks not eligible for the Program

- **Promissory notes and/or arrangement to hold the check for deposit or credit extensions.**
- **Second party checks**
- **Payroll 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

The two documents below must be completed before any checks can be processed in the program.

1. The “**Memorandum of Understanding**”. Send this with your first checks.
You need to send this in one time only.
2. A completed “**Preliminary Worthless Check Report**” form must accompany each batch of check(s) submitted.
You must submit the original check(s) or copy (if checks are imaged) stamped by the bank with the reason it was returned to you.

Mail checks to : **Oneida County Check Diversion Program**
 PO Box 190
 Hager City, WI 54014-0190

WORTHLESS CHECK PROGRAM REPORTING

Once a worthless check has been entered into the program:

1. For information on checks sent in call 1-800-906-8182 or visit www.financialcrimes.net

1. Restitution recovered will be handled as follows:
 - Paid in full restitution will be deposited into a trust account and paid back weekly
 - Payment plans will be deposited into a trust account and paid back after final payment is received.
 - All reports will be available on line and only payments will be mailed.
(there will be no reports sent out – you must sign on for online reporting to review activity)

WHEN TO CONTACT LAW ENFORCEMENT

Report:

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

When you are a victim of the above crimes, call your local Law Enforcement to file a report. An officer will take an initial report. **You must report these crimes immediately upon knowing.**

SIGNAGE

The following signage is required by Wisconsin 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.

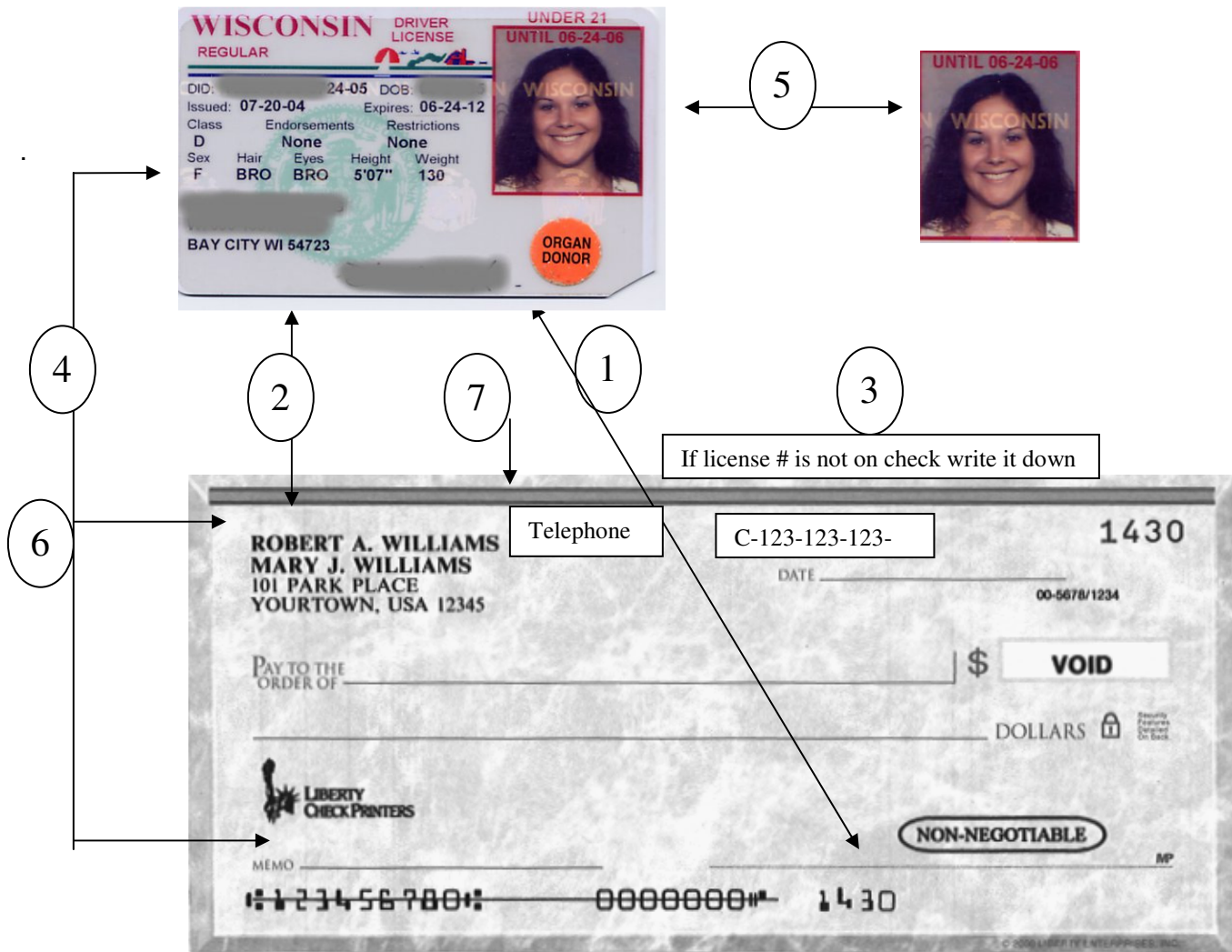
**IT'S AGAINST THE LAW TO WRITE A BAD
CHECK IN WISCONSIN**

**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



1. 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
2. Make sure the identification card matches name and address on the check
If time permits write down good address as indicated by customer
3. Record or circle the Drivers License number or identification number
4. Record date of birth (i.e. DOB 1/29/72)
5. Make sure photo on identification card matches customer
6. Have employee initial upper left corner
7. Telephone number of the Check Writer

MEMORANDUM OF UNDERSTANDING

To: Financial Crimes Services
Check Diversion Program
P.O. Box 190
Hager City, WI 54014-0190

It is my intention to submit worthless checks to the Financial Crimes Services (FCS) Check Diversion Program. This is an acknowledgement to cooperate with all aspects of this program including:

To appear as witness, or have my staff appear as witnesses, as required for any prosecution of a worthless check submitted in this program.

I further agree that once a check has been submitted, I will NOT ACCEPT restitution from anyone, except from the Check Diversion Program. If restitution is accepted from anyone other than the Check Diversion Program, I could be liable for services performed and could be excluded from future service of this program for at least one year.

If I accept payment directly from the bad check writer, I will report payment to FCS within 24 hours. I understand that if payments directly to my business seem excessive, I may be assessed \$30 for each check for which I accept payment.

By this acknowledgement, when I forward a check to FCS for the Oneida County District Attorney's Check Diversion Program, I am foregoing my right to personally recover any service charges or civil penalties. These service charges or penalties, if any, will be collected through the Check Diversion Program. I also understand that I am gifting the \$30.00 NSF fee allowed by state statute to the Financial Crimes Services to provide this service

I am aware, and fully understand that this program was established by the Oneida County District Attorney and the Oneida County District Attorney's Office is held harmless and has no liability for the inability to make recovery of any check(s).

I also understand that the Oneida County Sheriff's Office, Police Departments and District Attorney's Office may pursue any and all legal criminal remedies for recovery of check(s) available to their offices.

I agree that in the event of a disputed check, a process for arbitration will be used to resolve the claims. I also agree to accept and abide by the decision of the mediator's judgement and make settlement of any fees, if found liable as a due course of arbitration. FCS may mediate my claims in good faith and be held harmless for any activities taken on my behalf.

I have received the copies of the restitution forms and guidelines for submitting checks to this program that I must complete. I recognize that a request for complaint form must be completed for each batch of checks being submitted.

As a merchant, I will ensure that I communicate to all my employees the proper check cashing/acceptance procedures, and display our check cashing policy and Wisconsin state law regarding check penalties as required by this program.

I understand that without proper photo identification such as a drivers license or state identification card recorded or verified during the transaction there may be limitations in pursuing the worthless check writer.

Signature of Company Representative Title Date

Please type or print the following information

Business Name _____

Address _____

City/State/Zip _____

Contact Name _____ Telephone number _____

Email Address: _____

PRELIMINARY WORTHLESS CHECK REPORT AND REQUEST FOR COMPLAINT

Mail to: Oneida County Check Diversion Program
P.O. Box 190
Hager City, WI 54014-0190

The Oneida County District Attorney authorizes Financial Crimes Services to provide this service and to report individuals for criminal prosecution who meet guidelines.

MASTER FILE NUMBER (FCS Complete)	CASE NUMBER (FCS/Police Complete)	COURT FILE NUMBER (FCS/Police Complete)
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BELOW TO BE COMPLETED BY PERSON WHO ACCEPTED THE CHECK (Please fill out form as completely as you can)

VICTIM OR FIRM NAME	ADDRESS	BANK FEE
PERSON FILING COMPLAINT	CITY, STATE, ZIP CODE	BUSINESS PHONE
	E-MAIL ADDRESS	BUSINESS FAX

CAN ACCEPTOR ID CHECK WRITER THROUGH PHOTO LINE UP OR IN PERSON (CIRCLE ONE)
 YES NO
(if yes is circled attach the single check with this form, if NO circled attach as many checks as you would like)

Witness PHONE # ADDRESS DOB Fill in the above information if you have circled YES above	ADDITIONAL WITNESS PHONE # ADDRESS DOB Fill in the above information if you have circled YES above
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DO YOU HAVE VIDEO OR RECORDING CUSTOMER AND IS IT AVAILABLE: YES ___ No ___	If yes please make still images and attach to form
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PHONE CALLS/DATE: _____

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.

DATE: _____
Victim Signature and Title Company