



Maricopa County Attorney's Office

MCAO

CHECK ENFORCEMENT GUIDEBOOK

Learn How the Check
Enforcement Program Can Help
You Recover Funds if You Receive
a Bad Check



A MESSAGE FROM

BILL MONTGOMERY

MARICOPA COUNTY ATTORNEY



Each day thousands of checks are written to pay for goods and services. Yet hundreds of these checks are not honored when presented at the bank due to insufficient funds, forgery or fraud. As a result, hardworking merchants and others go unpaid.

Fortunately, there is a legal remedy for victims of bad checks. Our Check Enforcement Program can recover restitution from bad check writers and even prosecute repeat offenders. To date, the program has recovered over \$40 million in restitution for people and businesses who've received checks that cannot be honored.

Best of all, our Check Enforcement Program is a completely free service.

This guidebook will explain the enforcement process and walk you through the steps you can take to recover funds if you or your business has received a bad check. It also contains helpful tips on how to protect yourself and how to avoid accepting a bad check in the first place.

Issuing a bad check is a crime and one which my office takes very seriously. With your help and participation in the Check Enforcement Program we can hold bad check writers accountable and ensure that you receive the funds a check writer has promised to pay and to which you are entitled.

Sincerely,

Bill Montgomery
Maricopa County Attorney

CHECK ENFORCEMENT GUIDEBOOK

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STEPS TO REDUCE THE POSSIBILITY OF ACCEPTING A BAD CHECK

Preventive measures can eliminate many hardships that result from accepting a bad check. These steps should be utilized by any individual or business accepting checks for payment on goods and services. Following these steps will decrease losses and increase the chances of receiving funds due to you.

STEP 1: DEMAND IDENTIFICATION AND WRITE IT ON THE CHECK

Verify the identity of the check writer by requesting a driver's license or other government-issued identification card. Look at the person giving you the check to ensure it is the same person pictured on the license or identification card. Write the information on the face of the check at the time you receive the check. Never let the check writer write his or her own identification information on the check. This protects against the check writer providing false information. Identification of the check writer is critical for successful prosecution.

STEP 2: LOOK AT THE CHECK NUMBER

Be cautious of checks that have low check numbers or no printed check numbers. Bad checks are frequently drawn on accounts less than one year old.

STEP 3: CHECK THE DATE FOR ACCURACY AND FOR A SIGNATURE

Do not accept a post-dated check or an unsigned check. A post-dated check or unsigned check may be a defense to prosecution.

STEP 4: COMPARE THE AMOUNTS WRITTEN ON THE CHECK

Make sure the numeric dollar amount matches the written dollar amount. A valid check for \$563.29 should be written: Five-hundred Sixty-three and 29/100 dollars.

***STEP 5: EXAMINE PRINTING ON THE CHECK**

A check that appears to be altered or uses two or more type sets may indicate forgery. Check the numbers and words for consistency. Review for crowded letters. Check for contrasts in ink color or density. Inconsistencies are keys to catching forgeries.

***STEP 6: LOOK AT THE NAME OF THE PAYEE**

Changes or additions to the payee name may indicate a possible forgery. If the color, density or the writing of the name appears different or if the check appears payable to two or more payees, there may have been an alteration.

*If you suspect a forged check please contact your local police department. Police agencies take reports for crimes alleging forgery. The Check Enforcement Program described in this Guidebook is applicable to checks not honored by banks due to insufficient funds and for checks written on closed accounts.

Arizona DRIVER LICENSE USA

NOT FOR FEDERAL IDENTIFICATION

9 CLASS D **1** DLN D08954142
 10 END NONE
 12 REST NONE DOB 01/01/1974

1 SAMPLE
 2 JELANI
 3 123 MAIN ST
 PHOENIX, AZ 85007

15 EXP 01/01/2039 4b ISS 03/01/2016
 16 SEX M 18 EYES BRO
 18 HGT 5'-09" 19 HAIR BRO
 17 WGT 185 lb

VETERAN
 01/01/74

DONOR

5 DD 9001A9691S1427J4

1 DL: D08954142 **2** 5719

3 DATE: 3/6/17

PAY **6** *Jim Wellington Roofing* \$ 563.29
 ORDER OF *Five hundred Sixty Three and 29/100* **4** DOLLARS Security Features Detailed on Back

MEMO: **3** *Jelani Sample*

⑆000045678000 0000⑆ ⑈0000

WHAT TO DO IF YOU RECEIVE A BAD CHECK

Despite following sound preventive measures, you may still receive a bad check. If you do, the following procedures will aid you in recovering your loss. (Please review all information in this Section of the Guidebook before submitting your bad check to the Check Enforcement Program.)

Follow these procedures prior to completing Check Enforcement Program forms:

- If possible, contact the check writer at the telephone number written on the check. Many bad checks are accidental and can be resolved through a courtesy call.
- If the matter is unresolved, prepare a Demand for Payment Notice Letter and send it by **certified mail** to the check writer at their last known address.
- The Demand for Payment Notice Letter Guidelines, along with the Demand for Payment Form A or B (two letter templates; Form A for a check \$4,999.00 or less; Form B for a check \$5,000.00 or more) can be found near the bottom of the page: MaricopaCountyAttorney.org/CEP
- **Do not** change the content of these letters, as both contain language established by Arizona law.
- **Do not** return the original bad check to the check writer with the Demand for Payment Notice Letter.
- If the check writer contacts you, **only accept full payment**, not partial payment. And only accept money orders or cashier's checks.
- Return the bad check to the check writer **only after** full payment has been paid to you.

If you are unsuccessful in recovering your money and the returned check was stamped by the bank indicating insufficient funds, account closed or the account could not be located, you may submit forms to the Check Enforcement Program. However, the Check Enforcement Program may decline your submission, if the check is:

- **A post-dated check** – these types of checks are considered an extension of credit and may not be prosecuted under Arizona law;
- **A stale check** – checks older than 180 days past the date of issue are considered stale and may be declined for prosecution;
- **A check for which partial payment was accepted** – acceptance of a partial payment constitutes extension of credit or a loan, and may not be prosecuted;

- **A check passed outside of Maricopa County** – the Maricopa County Attorney's Office lacks jurisdiction to prosecute checks issued, passed or accepted outside of Maricopa County by the issuer or the passer; or
- **A check without proper check writer identification** – without the check writer's driver's license or other government-issued identification number written on the check at the time the check was passed or without a positive identification by the witness, prosecution may be declined; or
- If there is pending civil litigation concerning the bad check or if a civil judgment has been obtained against the check writer.



SUBMITTING A CHECK TO THE CHECK ENFORCEMENT PROGRAM

The Maricopa County Attorney's Office Check Enforcement Program will help you receive full restitution on bad checks passed to you or your business. To get the process started, two forms must be submitted to the Check Enforcement Program:

A **Submittal/Witness Form** and a **Victim Information Form**, each of which can be found near the bottom of the page:

MaricopaCountyAttorney.org/CEP

Please answer all applicable questions on the forms and submit both forms by mail or in person, along with any copies of Demand for Payment Notice Letters or any other correspondence you had with the check writer to:

Maricopa County Attorney's Office
Check Enforcement Program
11 West Jefferson Street, 2nd Floor
Phoenix, AZ 85003

If you have any questions, please contact the Check Enforcement staff at: 602-372-7300.

Downloads for Merchants, Business C

Forms

- [Victim Information Form \(VIC\) \(PDF\)](#)
- [Submittal / Witness Form \(PDF\)](#)
- [Demand for Payment Notice Letter Guidelines \(PDF\)](#)
- [Check Enforcement Demand for Payment Form A](#)
- [Check Enforcement Demand for Payment Form B](#)

Informat

- [Check E](#)
- [Check E](#)
- [Check E](#)
- [Bad Ch](#)



Maricopa County
Attorney's Office

- Brochures, Forms & Information
- Criminal Justice Links
- Maricopa County Website - Maricopa.gov

WHAT HAPPENS NOW?

THE ENFORCEMENT PROCESS

The enforcement process begins as soon as the Submittal/Witness Form and the Victim Information Form are received by the Check Enforcement Program. Each form is initially reviewed by Check Enforcement staff. In some instances, a decision will be made to return the paperwork to the victim because the check cannot be successfully prosecuted.

If the paperwork is not returned to the victim, Check Enforcement Program staff will attempt to contact the check writer and require him or her to pay in full or in payments to the Check Enforcement Program. Upon receipt of monies, the Check Enforcement Program staff will process a restitution check to the victim. Fees will also be assessed to the check writer. If the check writer pays off the bad check in full along with any required fees, a criminal charge will not be filed.

When the check writer does not comply with the above, criminal charges may be filed against the check writer for issuing a bad check. In most cases, issuing a bad check is a class one misdemeanor. These cases are prosecuted in Maricopa County Justice Courts. The Check Enforcement Program staff files a charging document known as a complaint in the proper Justice Court. The check writer is notified of the criminal charge(s) by a summons. The summons directs the check writer to appear in court on a specified date to respond to the criminal charge(s) against him or her. The check writer must respond to the criminal court summons or an arrest warrant may be issued by the court.

After the initial appearance in court, the check writer is required to attend all subsequent court proceedings. In some cases the prosecutor will enter into a plea agreement with the check writer. If a plea is negotiated, the check writer will be required to pay full restitution for all prosecutable offenses. If a plea is not negotiated, the matter may proceed to trial. At the trial the prosecutor is required to present evidence through witnesses to prove the case beyond a reasonable doubt.

If the check writer is convicted, the sentence could include fines and surcharges of \$2500.00 and up to three years' probation. In severe cases, a judge can order a check writer to complete a jail term of up to six months for each bad check and pay full restitution of the check(s).

IMPORTANT INFORMATION

VICTIM AND CHECK WRITER CONTACT

Once you have submitted forms to the Check Enforcement Program the Maricopa County Attorney's Office requests that you have no further contact with the check writer. If the check writer contacts you in an attempt to pay you, inform the check writer that he or she should contact the Maricopa County Check Enforcement Program for further information. Do not accept payment for a bad check once you have submitted the bad check to the Check Enforcement Program.

RESTITUTION

Once a check writer is directed by the Court or Check Enforcement Program staff to pay restitution, the check writer must make payments directly to the Check Enforcement Program. Recovery of the debt owed may take time, particularly if it is based upon a payment schedule. When a check writer makes a payment, the money is placed into a trust account. Payment to the victim is processed by the Check Enforcement Program. If there are multiple bad checks in a matter, payment to the victim is based upon the oldest check first. Check Enforcement Program staff monitors all payments to victims.

ORIGINAL CHECKS WILL NOT BE RETURNED

When a bad check has been submitted to the Check Enforcement Program, the Maricopa County Attorney's Office retains the right to proceed with criminal prosecution against the check writer. If the Maricopa County Attorney's Office proceeds with prosecution, the check is retained as evidence in the criminal proceeding. Even if a check is paid in full prior to a trial, the County Attorney will retain the original check for fiscal accounting and audit purposes. No checks will be returned once a criminal complaint has been filed in court.

CHANGE IN CONTACT INFORMATION

If you have a new address, phone number or e-mail address, please contact the Check Enforcement Program at, 602-372-7300. Without current victim contact information, restitution payments may be delayed or returned and rendered null and void.

CHECKING ON CASE STATUS

Please wait at least 45 days before making an inquiry to the Check Enforcement Program regarding the status of your case. Be prepared to provide your issued victim identification number, along with the name of the check writer. Inquiries can be made to the Check Enforcement Program at, 602-372-7300.

HOW TO CONTACT THE CHECK ENFORCEMENT PROGRAM

Address: Maricopa County Attorney's Office
Check Enforcement Program
11 West Jefferson Street, 2nd Floor
Phoenix, AZ 85003

The Check Enforcement Program is located on the second floor of the Luhrs Building on the southwest corner of Central Ave. and Jefferson St.

Phone: 602-372-7300
Fax: 602-372-0014
Email: mcaocheck@mcao.maricopa.gov

Office Hours: 8:00 a.m. to 4:30 p.m.
Monday through Friday, excluding legal holidays

Website: MaricopaCountyAttorney.org/CEP



Maricopa County Attorney's Office
11 West Jefferson Street, 2nd Floor
Phoenix, Arizona 85003

