

## WORTHLESS CHECK UNIT FREQUENTLY ASKED QUESTIONS:

### **What is a worthless check?**

A worthless check is a check written without having sufficient funds to cover the amount of the check or a check written on a closed account.

These checks are marked by the bank as one of the following:

**Non Sufficient Funds (NSF), Refer to Maker, Endorsement Cancelled, Account Closed or Account Not Found.**

### **What types of checks are not handled by the Worthless Check Unit?**

Checks marked **“forged”** or **“irregular signature”** are not handled by the Check Enforcement Unit and should be forwarded to the police or sheriff’s department for investigation. The Mobile Police Department may be reached at 251-208-7211. The Mobile County Sheriff’s Department may be reached at 251-574-8633.

Checks marked **“stop payment”** or **“account frozen”** are also not handled by the Check Enforcement Unit but may be collectable through civil or Small Claims Court.

The Worthless Check Unit cannot process **two-party checks**. These are civil in nature and may be collectable through civil or Small Claims Court. Mobile County’s Small Claims Court may be reached at 251-574-8525.

Currently, checks **exceeding a face value of \$2000.00** are not accepted by the Worthless Check Unit. Checks over this amount may be collectable through civil proceedings. In some instances, these checks **may qualify for felony prosecution**. You may contact the Mobile Police Department or the Mobile County Sheriff’s Department at the telephone numbers above to see if this applies to your situation.

### **When is issuing a worthless check a crime?**

A person commits a misdemeanor offense called Negotiating a Worthless Negotiable Instrument or NWN I any time a writer issues a check for something of value without having the funds in the bank to cover that check.

Negotiating a Worthless Negotiable Instrument (NWN I) is a crime punishable by restitution, fines, fees, and up to one year in jail.

Generally, the District Attorney’s Office takes the approach that the person writing the check wants to make good on it. The check writer is usually given an opportunity to pay the face value of the check and the associated fees mandated by law before an arrest is made.

However, there are some individuals who willingly refuse to pay restitution for their worthless checks. These individuals will be prosecuted to the fullest extent of the law.

### **What are the elements of the crime of passing a worthless check?**

Intent is an element of the crime of issuing a worthless check. A person is presumed to have the intent to pass a bad check if the writer does not have an open account at the time that the check is presented or if writer of the check fails to pay the check holder the amount of the check plus a service charge (currently not to exceed \$30) within ten (10) days after receiving written notice from the holder of the check that payment on the check was refused.

The holder of the check is only obligated to send notice of non-payment to the address on the check or the address provided in writing by the check writer at the time that the check was presented. It is the check writer's responsibility to make sure that the information contained on the face of the check is valid.

### **Who is eligible to use the services of the District Attorney's Worthless Check Unit?**

Any person or business that has received a worthless check while transacting business in Mobile County may utilize the services of the Worthless Check Unit.

### **What is the cost of this service?**

There is no cost to the victim for filing a complaint with the Worthless Check Unit.

### **Can the Worthless Check Unit accept a worthless check if I have taken a partial payment?**

No. If you have accepted a partial payment but have been unable to collect the balance due, you may be able to pursue the matter in civil or small claims court.

Also, please note that acceptance of a full or partial payment after a complaint has been filed with the Worthless Check Unit will require you to withdraw the complaint and pay a \$30 service fee to the Worthless Check Unit.

### **I agreed to hold a check before depositing it. Can I still file a complaint?**

**No.** By agreeing to hold a check for a period of time, you have implicitly stated your understanding and acceptance that **the check was not good at the time it was presented**. Such an agreement between a check writer and a merchant precludes the filing of a criminal complaint. If this is the case, you may consider having the matter adjudicated in civil/small claims court.

**What information must I provide to the District Attorney's Office to obtain a warrant against a worthless check writer?**

To file a complaint and obtain a warrant against a worthless check writer, you must provide the following:

- (a) the **green certified mail card** from the U.S. Post Office containing the signature of the individual who accepted the *10-day letter* –or- the entire *10-day letter* (unopened) if the letter was returned to you unclaimed (click [here](#) for a copy of the 10 day notice letter);
- (b) a **LEGAL COPY** of the check from your bank (we can not accept a *copy of the legal copy*);
- (c) the **Affidavit** form that must be signed in front of a magistrate (click [here](#) for a copy of this form).

**Now that I have gathered all of the information to request a warrant against a worthless check writer, what do I do next?**

You may bring the required documentation to the Mobile County District Attorney's Worthless Check Unit at **205 Government Street, Suite C-501, located on the 5<sup>th</sup> floor in the North Tower at Government Plaza**. Turn to your left when you get off of the elevator on the 5<sup>th</sup> floor.

If you wish to save time by mailing this information to the Worthless Check Unit at **PO Box 1605, Mobile, AL 36633-1605**, our office will call you when the warrant is ready for your signature.

Our telephone number is 251-574-5775. Our **Merchant Line** is 251-574-5776.

**What happens after I file a worthless check complaint?**

After a complaint has been filed with our office, we attempt to contact the check writer via mail and telephone. The check writer must make restitution directly to the Worthless Check Unit. Restitution consists of the face value of the check, a victims' service charge, and a State of Alabama District Attorney service charge. These service fees are mandated by law.

If a check writer is unable or unwilling to pay restitution for his or her worthless check to the Worthless Check Unit, that individual can opt to surrender on the warrant and have the charge adjudicated in District Court. If the check writer chooses this option, he or she will also be responsible for costs of court and any additional fines that may be imposed by the judge. He or she may also be required to post a bond to get out of jail prior to the court hearing.

**How long does the Worthless Check Unit give a check writer to pay his or her worthless check(s) ?**

When a complaint is filed and a warrant is issued, the check writer is given a ten (10) day grace period to remit full restitution to this office. If the check writer is unable to pay in full by that time, he or she MUST contact our office to discuss a restitution agreement. A Restitution Agreement is an agreement between the Worthless Check unit and the check writer allowing additional time to pay restitution. While our office does not accept partial payments, under certain circumstances we may agree to extend the 10 day grace period. Each situation is evaluated on a case by case basis to determine if a restitution agreement will be offered and, if so, how much time will be allowed for the payment of each check.

**What happens to the warrant when a check writer pays restitution to the Worthless Check Unit?**

Once an individual remits full restitution to our office for a worthless check, the associated warrant is withdrawn, voided and the matter is concluded. As long as the individual has cleared the matter prior to being arrested, the charge will not appear on the individual's permanent record and no court appearance will be required.

**How long will it take me to receive restitution after the check writer has paid the Worthless Check Unit?**

Typically, you should receive the restitution within 45 days from the time it is received by our office.

**How can I find out the status of a complaint I have filed?**

If a check writer fails to respond to attempts to contact him or her, it may be because we do not have a valid address or telephone number for that individual. Skip tracing (locating) defendants takes time. If after 90 days you have not received restitution for a check you have submitted to our office for collection please feel free to call our office at 251-574-5776 to check on the status of the case.

**I have written a worthless check and would like to pay the Worthless Check Unit. What are my payment options?**

You have the following payment options:

- (1) You may pay in person at the Check Enforcement Unit located on the 5<sup>th</sup> floor of Government Plaza at 205 Government Street between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.
- (2) You may mail a cashier's check or money order for the full amount due to PO Box 1605, Mobile, AL 36633-1605. Please enclose a self-addressed, stamped envelope if you would like a receipt. *Personal checks are not accepted and will be returned.*
- (3) You may pay by phone using our automated system by calling 1-877-958-8454.
- (4) You may pay online at [www.mobileda.org](http://www.mobileda.org). You will need your file number in order to make a payment.