
Check Law Violation Procedures

209.1 PURPOSE

To establish guidelines for the investigation and reporting of Non-Sufficient Funds and Account Closed check law violations.

209.2 PROCEDURE

The below procedures should be followed for all Non-Sufficient Checks and Account Closed Check Law Violation investigations.

209.2.1 NON-SUFFICIENT FUNDS (NSF) CHECKS (MCL 750.131)

1. Prosecution threshold criteria:
 - (a) NSF checks less than \$100 will not be prosecuted unless it can be established that the suspect wrote three (3) or more NSF checks within a 10-day period (750.131a).
 - (b) Checks must have been drawn from a financial institution in the State of Michigan.
 - (c) Checks must not be older than 60 days.
 - (d) The Kalamazoo County Prosecutor will not prosecute case if a partial payment has been received.
 - (e) The Kalamazoo County Prosecutor will not prosecute case if the check has been post-dated.
2. Complainants reporting NSF checks that do not meet the threshold criteria for prosecution shall be referred to small claims court.
3. Complainant reporting requirements:
 - (a) The case must be written in the jurisdiction in which the check was accepted.
 - (b) The complainant must complete a Bad Check Notice and furnish it to the person who wrote the check.
 - i. The Bad Check Notice is a statutory requirement (750.132), and may be served in person or by certified mail.
 - ii. Notice by telephone is not sufficient.
 - iii. Failure of the suspect to pay the amount due within 5 days after proof of delivery or non-delivery of the Bad Check Notice establishes the intent to defraud.
 - iv. The certified mail return receipt of delivery or non-delivery is evidence.
 - (c) The complainant must provide the original returned check for evidentiary purposes.
 - (d) The complainant must complete an NSF/Account Closed Check form.

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- (e) The person who accepted the check must be able to identify the suspect with either a photo copy of the suspects ID taken at the time of acceptance or with video surveillance.
4. Investigating Officer Requirements:
- (a) Seize the original returned check and original certified mail return receipt and place into evidence.
 - i. Protect checks for prints.
 - ii. Make photocopies of the check(s) and certified mail return receipt; write the case number on the copies, and route directly to CID.
 - iii. Place original check and original bad check notice in evidence. Do not fill out a request for lab analysis.
 - (b) Write case number on NSF/Account Closed Check Form and route directly to CID.
 - (c) Prepare I-Leads offense report and complete the Check Law Violations drop down narrative. (MICR 26006, UCR 2606).

209.2.2 ACCOUNT CLOSED CHECKS (MCL 750.131A)

1. Complaints for Account Closed Checks are eligible for prosecution regardless of the check amount.
2. Follow the complainant reporting requirements (3), and Investigating Officer Requirements (4), listed in the above NSF checks procedure.
3. MICR 26006, UCR 2676