

Kaufman County District Attorney's Office

Hot Check Department Guidelines

The Hot Check Department of the Kaufman County District Attorney's Office accepts complaints for investigation alleging **Theft** or **Theft of Service** when a person issues a check that is refused by the issuer's bank. Upon receipt of a qualifying complaint, this office will mail a notice to the check issuer requesting restitution through the Hot Check Department.

If restitution is not received, criminal charges may be filed, subject to the requirements outlined below.

Eligibility Requirements

1. Type of Check

- The check must not be a bank draft.

2. Exchange for Property or Services

The check must have been exchanged for property or services provided at the time the check was issued.

Checks written for any of the following may or may not constitute a criminal offense. Each case will be evaluated individually:

- Payment on an open or billed account
- Payment on an outstanding debt or loan
- Payment for payroll or contract work
- A replacement, held, or post-dated check

3. Presentation of the Check

- The check must have been presented in person, by the signer, and within Kaufman County.
- The signature must have been witnessed by the person who received the check.

Checks written under any of the circumstances listed below may or may not constitute a criminal offense and will be evaluated on a case-by-case basis:

- Received through the mail
- Passed by another party on behalf of the issuer
- Accepted by an unknown employee, courier, or delivery person
- Pre-signed by the issuer
- A two-party check (not made payable to the receiver)

4. Bank Presentment and Reason for Refusal

- The check must have been presented to the issuer's bank within thirty (30) days of the issue date.
- The bank must have refused payment for one of the following reasons:
 - Non-Sufficient Funds (NSF)
 - Account Closed / No Account Found

If the check is stamped Refer to Maker, Uncollected Funds, Funds Unavailable, Unauthorized Signature, Lost/Stolen, Forgery, or Other, it may or may not be a criminal offense and will be reviewed individually.

5. Statutory Notice to the Issuer

- The issuer must have been sent written notification via certified mail advising that the check was refused.
- The issuer must have failed to pay the check holder in full within ten (10) working days of receiving the notice.

Note: Written notice is not required when the issuer did not have an account with the bank at the time the check was issued.

Complaint Form Requirements

The Hot Check Department complaint form must include:

- Sufficient information to identify and locate the person who physically received the check from the issuer.
- Sufficient information to identify the issuer of the check, including:
 - True date of birth
 - A verifiable state driver's license or identification number

Instructions for Filing a Complaint

1. Complete and notarize a separate DA Theft by Check / Issuance of a Bad Check Complaint Form for each check.
2. Attach the original check or a legal copy provided by the bank.
3. Include the invoice, sales slip, or a detailed description of the property or services obtained.
4. Include proof that written notice was sent to the issuer, consisting of:
 - A postal receipt showing certified mail notification, or
 - Written notice sent by first-class mail with an affidavit of service by mail.
5. Deliver or mail the completed complaint to:

Physical Address: Kaufman County District Attorney
Hot Check Department
1902 E US Hwy 175
Kaufman, TX 75142
(2nd Floor)

Mailing Address: Kaufman County District Attorney
Hot Check Department
PO Box 729
Kaufman, TX 75142

Instructions for Completing the Theft by Check Complaint Form

1. Submit one complaint form per check.
2. Complete all sections of the form as thoroughly as possible.
3. All complaint forms must be signed and notarized.
4. Completed forms may be submitted in person or by mail.

Special Instructions After Filing a Complaint

Although the Hot Check Department is not a collection agency, this office does collect restitution on behalf of victims. Restitution payments are accepted through the Hot Check Department in the form of money orders, cashier's checks, cash, and debit/credit cards.

To assist with restitution collection and any potential criminal prosecution, please adhere to the following:

Please Do Not:

1. Accept restitution directly from the check issuer after submitting a written complaint.
 - Refer the issuer to the Hot Check Department for payment.
2. Promise to dismiss or not pursue criminal charges in exchange for restitution.
3. Fail to notify the Hot Check Department of any changes to your address or telephone number.