

**BEFORE FILING HOT CHECK
COMPLAINTS VERIFY THE FOLLOWING:**

CHECK FOR IDENTIFIERS ON CHECKWRITER, MUST HAVE:

TX DL#

TX ADDRESS—NO P.O. BOXES

DOB AND EXTRA IDENTIFIERS (IF AVAILABLE)

FOR ALL OUT OF TOWN CHECKS, MUST HAVE:

TX DL#

TX ADDRESS—NO P.O. BOXES

DOB AND EXTRA IDENTIFIERS (IF AVAILABLE)

MUST ALSO PROVIDE A COPY OF THE 10 DAY DEMAND LETTER
WITH THE COMPLAINT.

CHECKS MUST BE MARKED:

NSF and/or CLOSED ACCOUNT

NO STOP PAYMENTS!

CHECKS MUST NOT BE OVER 2 YEARS OLD!

AFFIDAVIT FOR PROBABLE CAUSE AND COMPLAINT, IF NOT
SIGNED/WITNESSED BY A COURT CLERK, IT MUST BE
NOTARIZED!



INFORMATION FOR FILING BAD CHECKS



ISSUANCE OF A BAD CHECK: 32.41 PENAL CODE

The check must have been passed in this precinct and be deposited within 30 days from date of issuance. It must be stamped by the bank or drawee “NSF”, “No Account”, or “Account Closed”. (You must seek recovery through Civil Court for “Post Dated”, “Stop Payment”, “Funds Held”, “Refer to Maker”, etc. checks.)

Send a certified letter, return receipt requested to the person who signed the check. The letter must contain the following statement:

“This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.”

You must wait 15 days from the date of mailing or 10 days from the date letter was signed to file a complaint. The law requires the letter be sent and presumes it was received. (Please see the attached sample letter)

When filing, you must have the check signers **drivers license number, a current address and DOB (if available)**. When you file you must fill out a complaint, furnish the check and proof of mailing or receipt of letter. Any additional information you have about defendant should be included when filing. **We will not accept a complaint if partial restitution has been accepted.** After the check has been filed in this court, do not accept restitution. Instruct the defendant to come to this court to take care of this matter so we may recall any warrants that may be issued. If we receive restitution you will be contacted to pick up the money order. The law does not provide for a check charge or service charge. **You cannot refuse restitution if the defendant will not pay the charge.** This could be collected in a civil suit.

If you attempt to dismiss the complaint or refuse to testify in a trial, we may not accept other checks from you in the future.

Dear _____,

Please be advised that your check no. _____ dated _____ for \$ _____ has been returned to our bank marked “ _____ ”. This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.

Sincerely,

AFFIDAVIT FOR PROBABLE CAUSE

THE STATE OF TEXAS)(
COUNTY OF NUECES)(

I, _____, the undersigned affiant, being duly sworn, upon oath, make the following statement;

I have good reason to believe and do believe that _____, hereinafter called the "Accused", whose Texas Drivers License number is _____, did commit the offense of theft by passing a check on or about _____ in the City of Corpus Christi, Nueces County, Texas. The accused passed check number _____, dated _____ day of _____, 20____, made payable to the order of _____ and written for the sum of _____ in exchange for cash and/or property to:

- _____, an employee of _____, who received such check in the regular course of such business and who personally told me all of the foregoing facts; or
- _____, an employee of _____, who received such check under the foregoing circumstances in the regular course of such business as shown by its business records and by the said check both of which I have personally examined.

I have personally examined such check that was not honored by the Bank and on its face such check, through markings placed on the check by the Bank, shows that:

- The accused did not have sufficient funds on deposit with the Bank for payment in full of the said check; or
- The accused did not have an account with the Bank at the time accused issued the check.
- I personally learned the name and Texas Driver's License of the accused;

by personally examining the said check upon which such information was written by said recipient of the check when the check was passed; and

FURTHERMORE, as an employee of such business, I personally know that such business in its regular course of business requires that every passer of a check produce valid identification (including the passer's name and driver's license number) and that such information is routinely placed on the foregoing item by the recipient (employee of the business).

Affiant/Complainant Signature

Affiant/Complainant Printed Name

Said Affiant/Complainant (or his/her attorney), being duly sworn by me, the undersigned authority, upon oath says that the facts as stated in the above instrument are true and correct and within the knowledge of said affiant.

Sworn to and subscribed before me, to certify which witness my official seal of office this _____ day of _____, 20____.

Notary Public

Court Clerk

THE STATE OF TEXAS)(
COURTY OF NUECES)(

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned authority, on this day personally appeared _____ who, after being dully sworn, on oath deposes and says that she/he has good reasons to believe and does believe that therefore, to-wit on or about the _____ day of _____, A.D. 20____, and anterior to the filing of this complaint, in the County of

(DATE THE CHECK WAS SIGNED)

Nueces and State of Texas, one _____ did then and there unlawfully (PERSON WHO SIGNED THE CHECK)

issue a check from _____ to _____ (NAME OF THE BANK ON WHICH CHECK IS WRITTEN) (MERCHANT)

for the payment of money and/or merchandise, which check was in the tenor following:

And the said _____ then and there knowing that he/she did not have (PERSON WHO SIGNED THE CHECK)

sufficient funds in and on deposit with said bank for the payment in full of the check as well as all other check outstanding at the time of issuance;

Check # _____ Check Date: _____ Check Amount: _____

Affiant/Complainant _____

Address _____

Telephone Number _____

Said affiant (or his agent or attorney), being duly sworn by me, the undersigned authority, upon oath says that the facts as stated in the above instrument are true and correct and within the knowledge of said affiant.

Sworn to and subscribed before me, to certify which witness my official seal of office this _____ day of _____, _____.

Notary Public _____

Court Clerk _____

Defendant's Address

Home _____

Work _____ DOB (if available) _____

Telephone Number _____

Certified Letter Number _____

Date Mailed _____