

**"JUST  
THE  
FACTS"**



## MTIBRS Training & Technical Assistance

### Bad Checks 45-6-316

#### 45-6-316 Issuing a Bad Check

- ▶ (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.
- ▶ (2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.
- ▶ (3) (a) A person convicted of issuing a bad check not exceeding \$500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be imprisoned in the county jail for a term of not less than 5 days or more than 1 year and may be fined an amount not to exceed \$500.
- ▶ (b) A person convicted of issuing a bad check that exceeds \$500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.
- ▶ (c) A person convicted of issuing a bad check exceeding \$5,000 in value or as part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years.

## Bad Check 101

- ▶ Considered Group “B” Offenses
  - ▶ Crime against Property
  - ▶ Once labeled as a “90A” but now fall under “90Z”
  - ▶ Only reported to the FBI if an arrest is made
  - ▶ Will be reported to the State regardless of arrest status
- ▶ Not the same as “Counterfeiting/Forgery”
  - ▶ Completely different crime than bad checks/insufficient funds
  - ▶ Bad checks are defined as checks from a non-existent or closed account or insufficient funds
  - ▶ Counterfeited/forged checks are just that, counterfeit & forged!

- The FBI once labeled bad checks as a “90A,” but deleted the category in 2021 and began placing them in the “90Z” bucket, which is essentially the “all other bucket.”

## Bad Check Property Segment

- ▶ Attempted Offense
  - ▶ Loss must be “None” or “Unknown”
- ▶ Completed Offense
  - ▶ Loss must be “None,” “Stolen,” or “Unknown”
    - ▶ If Property confirmed as “Stolen,” include:
      - ▶ Property Description
      - ▶ Value of Property (must be at least \$1)
- ▶ Property Type Selection - “negotiable items”

- Property type must be listed as “none,” “unknown,” or “stolen.”

## Fun Facts and Info on Bad Checks

- ▶ IT IS ESTIMATED THAT BAD CHECKS TOTAL NEARLY **1.3 BILLION DOLLARS A YEAR**, AND THAT NEARLY ONE PERCENT OF ALL CHECKS ARE BAD. DISTRIBUTED OVER THE NUMBER OF HOUSEHOLDS IN THE COUNTRY, THIS COMES TO 12.85 DOLLARS PER HOUSEHOLD PER YEAR.
- ▶ [Check fraud is on the rise. Here's what you need to know and how to avoid it : NPR](#)
  - ▶ Interesting article on the rise of check fraud and how criminals are successful in completion of the crime

23 bad checks in 2022 15 in 21 turned into a civil issue handled by the courts more than anything. These are in our data primarily because often there is an additional charge.

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What's  
coming  
up?

**Check out our website for the 2023 topics**

<https://mbcc.mt.gov/Data/MTIBRS-Training>

- Go to <https://mbcc.mt.gov/Data/MTIBRS-Training> to register for all 2022 sessions. Make sure to bookmark this page.
- Future Just the Facts Training:



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