

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2941/2dn
MGD:jld:pg

November 25, 2003

Kelley:

As I mentioned in our phone conversation, the previous draft could have been read as prohibiting a deferred prosecution agreement in a worthless check case unless the defendant agreed to pay the district attorney the amount of the check. This draft preserves the right of the district attorney to negotiate a deferred prosecution agreement that does not impose such a condition. That also eliminates the need to specify whether the complaint will be amended or dismissed under the agreement. (The parties are free to negotiate any disposition under the agreement.) At the same time, consistent with David O'Leary's letter of September 8, 2003, and the description of the program in the third paragraph of Steven Tinker's letter, the draft requires the defendant to attend a class or counseling if the deferred prosecution agreement provides that the defendant is to make payments to the district attorney.

Thus, this draft differs substantially different from the prior version. Please review it to ensure that it is consistent with your intent.

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