

March 3, 2004

Support for 2003 Assembly Bill 887

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Summary:

In MN we currently have under direct contract 45 cities and 17 counties with another 60 cities indirectly using our services through county contracts.

Through this effort we support over 1000 business, 450 financial institutions, and 950 investigators in a 5 state area.

Check Diversion in MN 2003

18, 245 checks recorded
3753 were \$25.00 or less
8329 were \$50.00 or less
5100 were \$51.00 to \$100.00
3043 were \$101.00 to \$150.00
1400 were \$151.00 to \$200.00

Just a few WI stats:

Wal-Marts losses on NSF/Account Closed estimates for Milwaukee alone are at \$24 million

St. Croix County

Policy is not to take checks less than \$25.00

2003 over 800 checks all over \$25.00

If they took less than \$25.00 checks the case load would be about 2000 checks

Dunn County

129 checks prosecuted for worth over \$11,000.00

City of Menomonie works on smaller checks and saw a 16% increase in NSF/Account Closed checks in 2003

City of Madison

Deals with checks over \$2500.00 only



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

Wednesday, March 3, 2004

TO: Assembly Committee on Corrections and the Courts
FROM: Rep. Dan Schooff and Sen. Judy Robson
RE: Assembly Bill 887, relating to deferred prosecution agreements for persons charged with issuing a worthless check or other order for payment and allowing a district attorney to collect money owed to others.

Summary of AB 887

Under current law, when a person is charged with issuing a worthless check, the alleged violation may be resolved either through criminal prosecution or through a deferred prosecution agreement. A deferred prosecution agreement is an agreement a district attorney (DA) enters into with a defendant to reduce or dismiss charges after the defendant meets certain conditions.

Under this bill, a deferred prosecution agreement in a worthless check case may require the defendant to pay money owed for the bad check to the DA for remittance to the payee (or victim). If so, the agreement must also require that the defendant attend a class or counseling in financial management and be educated on the impact of issuing worthless checks. This bill changes current law by allowing a DA to charge the defendant a fee, to be used to finance the educational counseling, for entering into the agreement.

AB 887 permits a DA to contract only with a nonprofit organization that is licensed as a collection agency under these types of agreements and which will administer the educational component of the agreement. The bill *does not* require a DA to be licensed as a collection agency, a collector or a solicitor for the purpose of collecting money from defendants. Finally, this bill provides the *option* of using these tools. It does not create a mandate or require DAs to establish any new programs.

Background on AB 887

This issue was brought to my attention by a constituent, Willy Petzrick, who had been researching and advocating the creation of a worthless check offender program similar to the program operated in Winnebago County, Illinois. Mr. Petzrick suggested including an educational component, such as a financial management workshop, as an important part of a deferred prosecution agreement because he felt that educating offenders would reduce recidivism and was an appropriate prosecutorial tool for low monetary value offenses.

Why AB 887?

Wisconsin's law enforcement officials are overburdened by the volume of worthless check cases presented. Currently, DAs and municipal attorneys only prosecute a small portion of worthless check cases. Enactment of this proposal would allow law enforcement and DAs to focus energies on more egregious cases by giving DAs the option of pursuing criminal action against multiple and repeat offenders while keeping first time offenders out of criminal court. In addition, the educational component of this bill will likely cut down on the rate of recidivism for offenders.

In addition, although definitive data is not available, the WI Merchants Federation estimates that Wisconsin merchants lose between .2% and .3% of annual gross sales because of bad checks, most of which are checks written for under \$100. Combined, they estimate that these worthless checks cost Wisconsin merchants more than \$100 million annually, which is compensated for by increased costs to consumers and results in lost tax revenue for the state. AB 887 would result in increased restitution to Wisconsin merchants and increased tax revenue for the state.