
By: **Senators Stone and Giannetti (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 2, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Bad Checks - Notice of Reliance on Evidence of Dishonor of**
3 **a Check**

4 FOR the purpose of requiring the State in a certain proceeding to provide a written
5 notice to the defendant or respondent a certain number of days before the
6 proceeding if the State intends to introduce certain evidence; requiring the State
7 to require the presence of a certain authorized representative as a prosecution
8 witness for a certain proceeding if the defendant or respondent makes a written
9 demand a certain number of days before the proceeding; and generally relating
10 to a bad check proceeding.

11 BY repealing and reenacting, with amendments,
12 Article - Criminal Law
13 Section 8-104
14 Annotated Code of Maryland
15 (2002 Volume and 2004 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Criminal Law**

19 8-104.

20 (a) The drawer or representative drawer is presumed to know that there are
21 insufficient funds whenever the drawer of a check has insufficient funds with the
22 drawee to cover the check and other outstanding checks when issuing the check.

23 (b) The drawer or representative drawer of a dishonored check is presumed to
24 have intended or believed that the check would be dishonored on presentment if:

25 (1) the drawer had no account with the drawee when issuing the check;

26 or

1 (2) (i) when issuing the check, the drawer had insufficient funds with
2 the drawee to cover the check and other outstanding checks;

3 (ii) the check was presented to the drawee for payment not more
4 than 30 days after the date of issuing the check; and

5 (iii) the drawer had insufficient funds with the drawee at the time of
6 presentment.

7 (c) [A] SUBJECT TO SUBSECTION (E) OF THIS SECTION, A notice of protest of a
8 check, or a certificate under oath of an authorized representative of the drawee
9 declaring the dishonor of a check, the drawer's lack of an account, or that the drawer
10 had insufficient funds introduced in evidence is presumptive evidence, that:

11 (1) the check was dishonored by the drawee; and

12 (2) the drawer had:

13 (i) no account with the drawee when the check was issued; or

14 (ii) insufficient funds with the drawee at the time of presentment
15 and issuing of the check.

16 (d) [The] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE fact that a
17 drawer or representative drawer, without the consent of the payee, stopped or
18 countermanded the payment of the check, or otherwise caused the drawee to
19 disregard, dishonor, or refuse to recognize the check without returning or tendering
20 the return of the property obtained, is presumptive evidence that the drawer or
21 representative drawer had the intent when issuing the check to stop or countermand
22 payment or otherwise cause the drawee to disregard, dishonor, or refuse to recognize
23 the check.

24 (E) (1) AT LEAST 10 DAYS BEFORE A PROCEEDING IN WHICH THE STATE
25 INTENDS TO INTRODUCE ANY PRESUMPTIVE EVIDENCE UNDER SUBSECTION (C) OR
26 (D) OF THIS SECTION IN ANY CRIMINAL OR DELINQUENCY PROCEEDING, THE STATE
27 SHALL PROVIDE WRITTEN NOTICE TO THE DEFENDANT OR RESPONDENT THAT THE
28 STATE INTENDS TO:

29 (I) RELY ON EVIDENCE; AND

30 (II) INTRODUCE THE EVIDENCE AT THE PROCEEDING.

31 (2) ON WRITTEN DEMAND OF A DEFENDANT OR RESPONDENT FILED AT
32 LEAST 5 DAYS BEFORE THE PROCEEDING DESCRIBED IN PARAGRAPH (1) OF THIS
33 SUBSECTION, THE STATE SHALL REQUIRE THE PRESENCE OF AN AUTHORIZED
34 REPRESENTATIVE OF THE DRAWEE AS A PROSECUTION WITNESS.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2005.