

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 adding Section 17-1b as follows:

6 (720 ILCS 5/17-1b new)

7 Sec. 17-1b. State's Attorney's bad check diversion
8 program.

9 (a) In this Section:

10 "Offender" means a person charged with, or for whom
11 probable cause exists to charge the person with, deceptive
12 practices.

13 "Pretrial diversion" means the decision of a prosecutor
14 to refer an offender to a diversion program on condition that
15 the criminal charges against the offender will be dismissed
16 after a specified period of time, or the case will not be
17 charged, if the offender successfully completes the program.

18 "Restitution" means all amounts payable to a victim of
19 deceptive practices under a bad check diversion program
20 created under this Section, including the amount of the check
21 and any transaction fees payable to a victim as set forth in
22 subsection (g).

23 (b) A State's Attorney may create within his or her
24 office a bad check diversion program for offenders who agree
25 to voluntarily participate in the program instead of
26 undergoing prosecution. The program may be conducted by the
27 State's Attorney or by a private entity under contract with
28 the State's Attorney. If the State's Attorney contracts with
29 a private entity to perform any services in operating the
30 program, the entity shall operate under the supervision,
31 direction, and control of the State's Attorney. Any private

1 entity providing services under this Section is not a
2 "collection agency" as that term is defined under the
3 Collection Agency Act.

4 (c) If an offender is referred to the State's Attorney,
5 the State's Attorney may determine whether the offender is
6 appropriate for acceptance in the program. The State's
7 Attorney may consider, but shall not be limited to
8 consideration of, the following factors:

9 (1) the amount of the check that was drawn or
10 passed;

11 (2) prior referrals of the offender to the program;

12 (3) whether other charges of deceptive practices
13 are pending against the offender;

14 (4) the evidence presented to the State's Attorney
15 regarding the facts and circumstances of the incident;

16 (5) the offender's criminal history; and

17 (6) the reason the check was dishonored by the
18 financial institution.

19 (d) The bad check diversion program may require an
20 offender to do one or more of the following:

21 (i) pay for, at his or her own expense, and
22 successfully complete an educational class held by the
23 State's Attorney or a private entity under contract with
24 the State's Attorney;

25 (ii) make full restitution for the offense;

26 (iii) pay a per-check administrative fee as set
27 forth in this Section.

28 (e) If an offender is diverted to the program, the
29 State's Attorney shall agree in writing not to prosecute the
30 offender upon the offender's successful completion of the
31 program conditions. The State's Attorney's agreement to
32 divert the offender shall specify the offenses that will not
33 be prosecuted by identifying the checks involved in the
34 transactions.

1 (f) The State's Attorney, or private entity under
2 contract with the State's Attorney, may collect a fee from an
3 offender diverted to the State's Attorney's bad check
4 diversion program. This fee may be deposited in a bank
5 account maintained by the State's Attorney for the purpose of
6 depositing fees and paying the expenses of the program. The
7 State's Attorney may require that the fee be paid directly to
8 a private entity that administers the program under a
9 contract with the State's Attorney. The amount of the
10 administrative fees collected by the State's Attorney under
11 the program may not exceed \$35 per check. The county board
12 may, however, by ordinance, increase the fees allowed by this
13 Section if the increase is justified by an acceptable cost
14 study showing that the fees allowed by this Section are not
15 sufficient to cover the cost of providing the service.

16 (g) The State's Attorney, or private entity under
17 contract with the State's Attorney, may recover, in addition
18 to the face amount of the dishonored check or draft, a
19 transaction fee to defray the costs and expenses incurred by
20 a victim who received a dishonored check that was made or
21 delivered by the offender. The transaction fee shall be paid
22 to the victim as restitution for the offense. The amount of
23 the transaction fee must not exceed: \$25 if the face amount
24 of the check or draft does not exceed \$100; \$30 if the face
25 amount of the check or draft is greater than \$100 but does
26 not exceed \$250; \$35 if the face amount of the check or draft
27 is greater than \$250 but does not exceed \$500; \$40 if the
28 face amount of the check or draft is greater than \$500 but
29 does not exceed \$1,000; and \$50 if the face amount of the
30 check or draft is greater than \$1,000.