

## SENATE BILL No. 429

By Committee on Judiciary

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9 AN ACT concerning crimes and punishment; relating to worthless  
10 checks; amending K.S.A. 2003 Supp. 21-3707 and repealing the exist-  
11 ing section.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2003 Supp. 21-3707 is hereby amended to read as  
15 follows: 21-3707. (a) Giving a worthless check is the making, drawing,  
16 issuing or delivering or causing or directing the making, drawing, issuing  
17 or delivering of any check, order or draft on any bank, credit union,  
18 savings and loan association or depository for the payment of money or  
19 its equivalent with intent to defraud and knowing, at the time of the  
20 making, drawing, issuing or delivering of such check, order or draft, that  
21 the maker or drawer has no deposit in or credits with the drawee or has  
22 not sufficient funds in, or credits with, the drawee for the payment of  
23 such check, order or draft in full upon its presentation.

24 (b) In any prosecution against the maker or drawer of a check, order  
25 or draft payment, of which has been refused by the drawee on account  
26 of insufficient funds, the making, drawing, issuing or delivering of such  
27 check shall be prima facie evidence of intent to defraud and of knowledge  
28 of insufficient funds in, or on deposit with, the drawee: (1) Unless the  
29 maker or drawer pays the holder thereof the amount due thereon and a  
30 service charge not exceeding \$30 for each check, within seven days after  
31 notice has been given to the maker or drawer that such check, draft or  
32 order has not been paid by the drawee. As used in this section, "notice"  
33 includes oral or written notice to the person entitled thereto. Written  
34 notice shall be presumed to have been given when deposited as restricted  
35 matter in the United States mail, addressed to the person to be given  
36 notice at such person's address as it appears on such check, draft or order;  
37 or (2) if a postdated date is placed on the check, order or draft without  
38 the knowledge or consent of the payee.

39 (c) In addition to all other costs and fees allowed by law, each pros-  
40 ecuting attorney who takes any action under the provisions of this section  
41 may collect from the issuer in such action an administrative handling cost,  
42 except in cases filed in a court of appropriate jurisdiction. The cost shall  
43 not exceed \$10 for each check. If the issuer of the check is convicted in

1 district court, the administrative handling costs may be assessed as part  
2 of the court costs in the matter. The moneys collected pursuant to this  
3 subsection shall be deposited into a trust fund which shall be administered  
4 by the board of county commissioners. The funds shall be expended only  
5 with the approval of the board of county commissioners, but may be used  
6 to help fund the normal operating expenses of the county or district at-  
7 torney's office.

8 (d) It shall not be a defense to a prosecution under this section that  
9 the check, draft or order upon which such prosecution is based:

10 (1) Was postdated, unless such check, draft or order was presented  
11 for payment prior to the postdated date; or

12 (2) was given to a payee who had knowledge or had been informed,  
13 when the payee accepted such check, draft or order, that the maker did  
14 not have sufficient funds in the hands of the drawee to pay such check,  
15 draft or order upon presentation, unless such check, draft or order was  
16 presented for payment prior to the date the maker informed the payee  
17 there would be sufficient funds.

18 (e) (1) (A) Giving a worthless check is a severity level 7, nonperson  
19 felony if the check, draft or order is drawn for \$25,000 or more.

20 (B) *Giving a worthless check more than once within a seven-day pe-*  
21 *riod, is a severity level 7, nonperson felony, if the combined total of the*  
22 *checks, drafts or orders is \$25,000 or more.*

23 (2) (A) Giving a worthless check is a severity level 9, nonperson felony  
24 if the check, draft or order is drawn for at least \$500 but less than \$25,000.

25 (B) *Giving a worthless check more than once within a seven-day pe-*  
26 *riod is a severity level 9, nonperson felony, if the combined total of the*  
27 *checks, drafts or orders is at least \$500 but less than \$25,000.*

28 (3) Giving a worthless check is a class A nonperson misdemeanor if  
29 the check, draft or order is drawn for less than \$500.

30 (4) Giving a worthless check, draft or order drawn for less than \$500  
31 is a severity level 9, nonperson felony if committed by a person who has,  
32 within five years immediately preceding commission of the crime, been  
33 convicted of giving a worthless check two or more times.

34 Sec. 2. K.S.A. 2003 Supp. 21-3707 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the statute book.