2020 Kansas Statutes

21-5821.   Giving a worthless check. (a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check on any financial institution for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check that the maker or drawer has no deposit in or credits with the financial institution or has not sufficient funds in, or credits with, the financial institution for the payment of such check in full upon its presentation.

(b)   Giving a worthless check is a:

(1)   Severity level 7, nonperson felony if:

(A)   The check is drawn for $25,000 or more; or

(B)   more than one worthless check is given within a seven-day period and the combined total of the checks is $25,000 or more;

(2)   severity level 9, nonperson felony if:

(A)   The check is drawn for at least $1,000 but less than $25,000;

(B)   more than one worthless check is given within a seven-day period and the combined total of the checks is at least $1,000 but less than $25,000; or

(C)   the person giving the worthless check has, within five years immediately preceding commission of the crime, been convicted of giving a worthless check two or more times; and

(3)   class A nonperson misdemeanor if the check is drawn for less than $1,000.

(c)   As used in this section and K.S.A. 2020 Supp. 21-5822, and amendments thereto:

(1)   "Check" is any check, order or draft on a financial institution;

(2)   "financial institution" means any bank, credit union, savings and loan association or depository; and

(3)   "notice" includes oral or written notice to the person entitled thereto.

(d)   In any prosecution against the maker or drawer of a check, payment of which has been refused by the financial institution on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the financial institution:

(1)   Unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding $30 for each check, within seven days after notice has been given to the maker or drawer that such check has not been paid by the financial institution. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check; or

(2)   if a postdated date is placed on the check without the knowledge or consent of the payee.

(e)   It shall not be a defense to a prosecution under this section that the check upon which such prosecution is based was:

(1)   Postdated, unless such check was presented for payment prior to the postdated date; or

(2)   given to a payee who had knowledge or had been informed, when the payee accepted such check that the maker did not have sufficient funds in the hands of the financial institution to pay such check upon presentation, unless such check was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

(f)   In addition to all other costs and fees allowed by law, each prosecutor who takes any action under the provisions of this section may collect from the issuer in such action an administrative handling cost, except in cases filed in a court of appropriate jurisdiction. The cost shall not exceed $10 for each check. If the issuer of the check is convicted in a district court, the administrative handling costs may be assessed as part of the court costs in the matter. The moneys collected pursuant to this subsection shall be deposited into a trust fund which shall be administered by the board of county commissioners. The funds shall be expended only with the approval of the board of county commissioners, but may be used to help fund the normal operating expenses of the county or district attorney's office.

History: L. 2010, ch. 136, § 107; July 1, 2011.