

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.

31       Section 99. Effective date. This Act takes effect upon  
32 becoming law.