

IMPORTANT NOTICE TO FELONY BAD CHECK ARREST WARRANT APPLICANTS

Georgia State Law (O.C.G.A. § 17-4-40) sets forth the procedure for the court to follow when someone who is not a police officer applies for the arrest of another person. That law requires the court to schedule the application for a hearing, notify the person whose arrest is sought about the hearing (they will be sent a copy of your application), and allow them to give their side of the story, **before the judge decides whether to issue an arrest warrant.**

- Only felony bad checks are filed in Magistrate Court (that is, checks for \$ 500.00 or more and checks drawn on out of state banks). If your check does not meet either of those requirements, you should request a bad check application from the Solicitor's Office.
- You must have received the check in Clayton County.
- If you accepted a post-dated check, or if you have accepted any money towards payment of the check, do not file this application; you should seek legal advice.
- In order to file this application, you must have deposited the check within thirty (30) days from the date it was written.
- In order to file this application, the check must have been returned by the bank "NSF," "No Account," "Account Closed," or similar language. If your check is not marked with that language, you should seek legal advice. It is not criminal deposit account fraud to "Stop Payment" on a check, and you should not file this application for a "Stop Payment" check.
- The Statutory Form Letter (See Attached) must have been sent via certified mail to the person who signed the check, and to the address on the check within ninety (90) days of the date the check was returned from the bank. Upon return of the letter, if no one signed for it, you may immediately file an application with the Magistrate Court. If the letter is signed for, you must wait ten (10) days for payment, before filing the application.
- When you file the application, you must present to the Clerk: (1) the original check; and (2) either the original green card showing that the form letter was signed for, or the original envelope showing that the form letter was returned undelivered. The Clerk will keep the original check, and make copies of the green card or envelope and return the originals to you. You must bring the original green card or returned envelope to court on the hearing date as well as a copy of the form letter you sent.
- Applications may be filed at the Clerk's Office from 8:00 a.m. to 5:00 p.m. weekdays.
- State Law (O.C.G.A. § 15-10-82) sets a filing fee of \$ 10.00 for each arrest warrant application you file. The fee is **NON-REFUNDABLE.**

- You must provide the full name, complete current address, complete date of birth, and a physical description of the person whose arrest is sought. If you file an application without this information, the Judge will deny your application. If you are missing any of this information, you need law enforcement assistance.
- You must fill out a separate application for each bad check.
- If your application is denied or you dismiss it, you may not re-file on the same check.
- You do not have the right to see a Magistrate Judge.
- This application can only result in the arrest and detention of a person for committing the criminal offense of deposit account fraud, it cannot result in an award of money to you.
- Employees in the Clerk's Office, employees in the Judges' Office, and the Magistrate Judges themselves are prohibited by state laws and regulations from providing legal advice. If you have questions about your legal rights, legal remedies available to you, or what legal documents to file and where to file them, you must contact an attorney.

*I have read and understand the above information
about arrest warrant applications.*

Signature of Applicant

Date

**BAD CHECK
STATUTORY FORM LETTER**

DATE: _____

TO: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

You are hereby notified that the following instrument(s):

Number	Date	Amount	Name of Bank
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

drawn upon _____ and payable to _____, (has) (have) been dishonored. Pursuant to Georgia law, you have ten days from receipt of this notice to tender payment of the total amount of the instrument(s) plus the applicable service charge(s) of \$_____ and any fee charged to the holder of the instrument by a bank or financial institution as a result of the instrument(s) not being honored, the total amount due being _____ dollars and _____ cents. Unless this amount is paid in full within the specified time above, a presumption in law arises that you delivered the instrument(s) with the intent to defraud and the dishonored instrument(s) and all other available information relating to this incident may be submitted to the magistrate for the issuance of a criminal warrant or citation or to the district attorney or solicitor-general for criminal prosecution.

Effective July 1, 2000.

MAGISTRATE COURT OF CLAYTON COUNTY

CITATION/WARRANT NO. _____

CITATION NO.

AFFIDAVIT/APPLICATION FOR DEPOSIT ACCOUNT FRAUD ARREST WARRANT OR CITATION

I hereby swear or affirm that the following information is true and correct to the best of my knowledge and belief and that I am making this affidavit/application so that a citation and/or arrest warrant may be issued for the accused/defendant:

Name of person who signed check (Defendant): _____

Address _____ City _____ State _____ Zip _____

Date of Birth _____ Soc. Sec. # _____ Sex ____ Race ____ Hair ____ Eyes ____

Hgt. _____ Wht. _____ Identifying marks _____ Alias _____

Employer _____ Phone (Home) _____ (Work) _____

Vehicle _____ D.L. # _____ Tag # _____

Name of the payee _____ Phone _____

Payee's Address _____ City _____, GA Zip _____

Check received at _____ City _____, GA Zip _____

Check received by: _____ Phone _____

(Person who took Address: _____
the check for Payee)

Check No.	Date	Amount	Date Presented to Bank	Date Returned By Bank	Date of Certified Letter	Date Letter Received or Returned	NSF	No Account	Acct. Closed

CHECK WAS GIVEN FOR: MERCHANDISE SERVICES CHILD SUPPORT WAGES
 ACCOUNT CASH DEBT RENT LOAN
 OTHER PRESENT CONSIDERATION: _____

IS THE DATE ON THE CHECK DIFFERENT FROM THE DATE GIVEN? YES NO

AT THE DEFENDANT'S REQUEST, THE CHECK WAS HELD: NO REQUEST _____ DAYS

HAS DEFENDANT PAID ANY AMOUNT TOWARD RESTITUTION? YES NO

WAS THE CHECK A THIRD PARTY CHECK? YES NO

WAS THE CHECK RECEIVED IN CLAYTON COUNTY? YES NO

The above information and the oral testimony subscribed and sworn to before me this _____ day of _____, 200____.

Affiant / Applicant / Agent of Payee

Print or type Affiant's Name

Phone#() _____
of Affiant

Judge/Clerk

Citation authorized not authorized
 Warrant authorized not authorized

MAGISTRATE COURT OF CLAYTON COUNTY

CITATION/WARRANT NO. _____

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Name of person who signed check (Defendant): _____
 Address _____ City _____ State _____ Zip _____
 Date of Birth _____ Soc. Sec. # _____ Sex ____ Race ____ Hair ____ Eyes ____
 Hgt. _____ Wht. _____ Identifying marks _____ Alias _____
 Employer _____ Phone (Home) _____ (Work) _____
 Vehicle _____ D.L. # _____ Tag # _____
 Name of the payee _____ Phone _____
 Payee's Address _____ City _____, GA Zip _____
 Check received at _____ City _____, GA Zip _____
 Check received by: _____ Phone _____
 (Person who took Address: _____
 the check for Payee)

Check No.	Date	Amount	Date Presented to Bank	Date Returned By Bank	Date of Certified Letter	Date Letter Received or Returned	NSF	No Account	Acct. Closed

CHECK WAS GIVEN FOR: MERCHANDISE SERVICES CHILD SUPPORT WAGES
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 WAS THE CHECK A THIRD PARTY CHECK? YES NO
 WAS THE CHECK RECEIVED IN CLAYTON COUNTY? YES NO

The above information and the oral testimony subscribed and sworn to before me this _____ day of _____, 200____.

 Affiant / Applicant / Agent of Payee

 Print or type Affiant's Name

Phone#() _____
 of Affiant

 Judge/Clerk
 Citation authorized not authorized
 Warrant authorized not authorized