

1979 WL 43144 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
October 30, 1979

\*1 John Patrick, Esquire  
Assistant Director  
S. C. Court Administration  
Post Office Box 11788  
Columbia, South Carolina 29211

Dear John:

In a recent letter to this Office you raised several questions pertaining to the recent fraudulent check legislation, [Sections 34-11-60, et seq, Code of Laws of South Carolina](#), 1976, as amended.

In your first question you asked whether it is a criminal offense for an individual to endorse a check from another and deliver that check with fraudulent intent to another? In a recent opinion dated October 3, 1979, this Office indicated that pursuant to a review of those sections defining the offense of issuing a fraudulent check, it appears that an endorser of a check determined to be fraudulent would be criminally liable if he was a knowledgeable party to the scheme to defraud or had knowledge that the check was in fact fraudulent as defined by [Section 34-11-60](#).

In your second question you asked if an endorser is criminally liable, would the provisions of [Section 34-11-70, Code of Laws of South Carolina](#), 1976, as amended, regarding the establishment of prima facie evidence of fraudulent intent be applicable to such an endorser. A review of the section indicates that the compliance with its provisions ‘. . . shall constitute prima facie evidence of fraudulent intent against the maker.’ In the opinion of this Office inasmuch as such section does not reference the determination of prima facie evidence as to an endorser and reasonable interpretation of such section would not permit such a determination, [Section 34-11-70](#) would not be applicable to an endorser. In light of such a conclusion, obviously it would be difficult in many instances to show fraudulent intent as to an endorser. Because of such difficulty, the suggested means of handling those cases involving endorsed checks would be to seek civil recourse against the endorser.

In your third question you asked whether it is a criminal offense for an endorser to deliver to another a check and cause, with fraudulent intent, the maker of the check to stop payment. In your remaining question you asked if such act is a criminal offense, do the provisions of [Section 34-11-70](#) regarding the establishment of prima facie evidence of fraudulent intent apply to such offense. Please be advised that in the opinion of this Office such actions would not appear to be a criminal offense as defined by [Sections 34-11-60](#), which defines the offense of issuing a fraudulent check, or [Section 34-11-80](#), which defines the offense of stopping payment on a check with intent to defraud. Inasmuch as such actions apparently are not violations of the fraudulent check act, a response to your remaining question concerning the establishment of prima facie evidence appears unnecessary. However, as to such a factual situation, consideration should be given to charging a violation of [Section 16-13-240, Code of Laws of South Carolina](#), 1976, which defines obtaining property by false pretenses.

\*2 If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson

Assistant Attorney General

1979 WL 43144 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.