

MEMORANDUM

To: Minnesota Sentencing Guidelines Commission
From: Nate Reitz, Executive Director
Date: July 9, 2026
Subject: **Public Hearing Comment – Theft from a Vulnerable Adult**

Introduction. As part of its proposed amendments to the sentencing guidelines and commentary, subject to public hearing July 16, 2026, and as a result of [2026 Minn. Laws ch. 118, art. 5, § 2](#), the Commission proposes to:

- Rank Theft From a Vulnerable Adult (Over \$35,000) at SL 7.
- Rank Theft From a Vulnerable Adult (Over \$5,000) at SL 5.
- Rank Felony Theft From a Vulnerable Adult (5,000 or Less) at SL 4.
- Rank Theft from a Vulnerable Adult (enhanced from a misdemeanor or gross misdemeanor) at SL 2.
- Make conforming changes to Section 2.A.2, eliminate unnecessary language, delete erroneous reference.

I write respectfully to recommend adding clarifying language to the first proposal, to rank Theft From a Vulnerable Adult (Over \$35,000) at SL 7.

Background. The over-\$35,000 threshold does not generally apply to theft crimes. In Minn. Stat. § 609.52, subd. 3(1), the Legislature has chosen to limit the applicability of this threshold to the following theft offenses:

- Theft by deception, including theft by check (§ 609.52, subd. 2(a)(3));
- Theft by swindle (subd. 2(a)(4));
- Diversion of corporate property (subd. 2(a)(16) & (17));
- Wage theft (subd. 2(a)(19)); and
- Financial exploitation of a vulnerable adult (§ 609.2335, subd. 1(1) & (2)(i)).

Other crimes—identity theft, unauthorized human services remunerations, check forgery, offering counterfeit currency, state lottery fraud, and financial transaction card fraud—apply an over-\$35,000 threshold through their own penalty schemes, all of which exist independently of the theft statute.

Issue. The 2026 Legislature created theft from a vulnerable adult within the general theft statute. The new crime adopts the various elements and penalties of the theft statute, but increases the maximum sentences

for felony theft by 25 percent if the thief knew or had reason to know that the victim was a vulnerable adult.

Because the starting points for the maximum sentences for the new crime are the existing maximum sentences for felony theft, the new crime is bound by the terms and limitations of those maximum sentences. As previously discussed, one of those terms and limitations is that, for the over-\$35,000 threshold to apply, the theft must be one of a select number of qualifying thefts (most pertinently, theft by deception or theft by swindle). If the theft is of a different type—such as the general theft statute—the over-\$5,000 threshold is the highest maximum sentence that will apply.

As drafted by staff and adopted by the Commission, the severity-level (SL) 7 ranking for Theft From a Vulnerable Adult (Over \$35,000) gives no notice that the over-\$35,000 threshold applies only to certain types of theft. This creates a risk of confusion and misapplication of the over-\$35,000 threshold in this context.

Recommendation. To avoid confusion and misapplication, and to be consistent with the existing SL 6 Theft offenses, for each felony theft committed against a vulnerable adult, specify both the original penalty clause and the new penalty-enhancing clause; and, for Theft from a Vulnerable Adult (Over \$35,000), further specify the select theft-offense clauses to which the SL 7 ranking may apply. Rearrange the offense list in Guidelines 5.B in statutory order. These changes are indicated by blue highlighting.

Amendments are proposed to the 2025 Minn. Sentencing Guidelines & Commentary, Sections 2.A & 5, as follows:

* * *

2.A. Offense Severity * * *

2. ~~Theft and Damage to Property; Foreseeable Creating a Risk of Bodily Harm.~~ For an offender sentenced for theft under If Minn. Stat. § 609.52, subd. 3a(a)(2), applies to a felony theft offense, the severity level ranking is elevated by one severity level from that listed on the Offense Severity Reference Table ~~if the offense creates a foreseeable risk of bodily harm to another and:~~
- ~~a. the violation involves a monetary value over \$1,000; or~~
 - ~~b. the violation involves a monetary value between \$500 and \$1,000, and the offender has been convicted within the preceding five years for an offense under Minn. Stat. § 609.52, subd. 3.~~

* * *

5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

Severity Level	Offense Title	Statute Number
7	* * *	
	<u>Theft from a Vulnerable Adult (Over \$35,000)</u>	<u>609.52, subd. 2(a)(3), (4), (15), (16), & (19) with subds. 3(1) & 3a(b)(3)</u>
	* * *	

Severity Level	Offense Title	Statute Number
5	* * *	
	<u>Theft from a Vulnerable Adult (Over \$5,000)</u>	<u>609.52, subds. 3(2) & 3a(b)(3)</u>
	* * *	

Severity Level	Offense Title	Statute Number
4	* * *	
	<u>Theft from a Vulnerable Adult (\$5,000 or Less)</u>	<u>609.52, subds. 3(3) & 3a(b)(3)</u>
	* * *	

Severity Level	Offense Title	Statute Number
2	* * *	
	Theft Crimes – \$5,000 or Less	See section 7: Theft Offense List
	<u>Theft from a Vulnerable Adult</u>	<u>609.52, subds. 3(4) & 3a(b)(2)</u>
	Theft (Looting)	609.52

Severity Level	Offense Title	Statute Number
	Theft (\$1,000 or Less; Risk of Bodily Harm)	609.52, subd. 3a(a)(1)
* * *		

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

Statute Number	Offense Title	Severity Level
* * *		
609.52 subd. 3a(1)	Theft (\$1,000, or Less; Risk of Bodily Harm)	2
609.52 subd. 3a(2)	Theft (Over \$1,000; Risk of Bodily Harm)	See Note[†]
609.52 subd. 3a(2)	Theft (\$501-\$1,000, and Prior Conviction; Risk of Bodily Harm)	See Note[†]
609.52 subds. 3(1) & 3a(b)(3) with subd. 2(a)(3), (4), (15), (16), & (19)	Theft from a Vulnerable Adult (Over \$35,000)	7
609.52 subd. 3(1)	Theft of Firearm	4
609.52 subd. 3(2)	Theft of Controlled Substances	4
609.52 subd. 3(2)	Theft of Incendiary Device	4
609.52 subd. 3(2)	Theft of Controlled Substances	4
609.52 subds. 3(2) & 3a(b)(3)	Theft from a Vulnerable Adult (Over \$5,000)	5
609.52 subds. 3(3) & 3a(b)(3)	Theft from a Vulnerable Adult (\$5,000 or Less)	4
609.52 subd. 3(3)(b)	Theft of Controlled Substances	3
609.52 subd. 3(3)(d)(iii)	Theft from an Abandoned or Vacant Building (\$1,000 or Less)	1
609.52 subds. 3(4) & 3a(b)(2)	Theft from a Vulnerable Adult	2

Statute Number	Offense Title	Severity Level
609.52 subd. 3a(a)(1)	Theft (\$1,000, or Less; Risk of Harm)	2
609.52 subd. 3a(a)(2)	Theft (Over \$1,000; Risk of Harm)	See Note¹
609.52 subd. 3a(a)(2)	Theft (\$501-\$1,000, and Prior Conviction; Risk of Harm)	See Note¹
* * *		

¹ See Guidelines section 2.A.2-a-b to determine the severity level.