

Sentencing Guidelines Comprehensive Review

Ranking Project: How to Tackle Theft-Related Offenses?

April 2, 2026

As part of its comprehensive review of the Sentencing Guidelines, the Commission has been reexamining how offenses are ranked by severity level. To break this task into manageable pieces, the Commission has been reexamining offense rankings by related offense groups. For its April meeting, it has been suggested that the Commission reexamine theft and theft-related offenses.

Unfortunately, this turns out to be enormous group, and one that defies a ranking exercise of the same sort that the Commission has been doing during its comprehensive review.

At the April meeting, staff proposes a high-level overview of theft-related offenses for in-meeting discussion, rather than assigning an entire offense group for the Commission to work on between meetings.

Ranking Theft-Related Offenses by Monetary Value: the Theft Offense List

The most straightforward way of differentiating the severity of various theft-related crimes is by the monetary value lost or stolen. These offenses are shown on Table 1, on page 4.

Section 7 of the Sentencing Guidelines contains the theft offense list. These theft-related offenses all have the same general ranking scheme: If the felony's monetary value **exceeds \$5,000**, the severity level (SL) is 3; if the monetary value is **less than or equal to \$5,000**, the SL is 2.¹

By relying on value as a proxy for severity, the Commission gains simplicity but loses nuance. For example, the crime of "temporary theft"²—where the thief intends only temporary control over the property—

¹ Oddly, five offenses on the Theft Offense List—False Declaration of Claim, Failure to Pay Over State Funds, Permitting False Claims Against Government, Defeating Security on Realty, and Defeating Security on Personalty—do not have a statutory \$5,000 monetary threshold, nor do they incorporate the theft statute's \$5,000 threshold. It is quite unusual, if not unprecedented, for the Guidelines to base a severity ranking on a monetary or quantity threshold that is not found in the statute that created the crime.

² *E.g.*, intentionally taking someone else's property with the intent to exercise temporary control only, where the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner. See Minn. Stat. § 609.52, subd. 2(a)(5)

arguably involves less culpability, and likely less harm, than theft with the intent of depriving the owner permanently of the property;³ yet, the Commission ranks the two the same.⁴

The legislature established the \$5,000 threshold in 2007, doubling the previous \$2,500 threshold.⁵ Nevertheless, several offenses retained the old \$2,500 threshold. The Commission generally continued to rank these at SL 3 if the monetary value **exceeds \$2,500**, and SL 2 if the monetary value is **less than or equal to \$2,500**.

For select crimes—thrift by fraudulent false representation, theft by swindle, theft by corporate diversion, and other crimes whose statute so specifies—there is a higher monetary threshold of **\$35,000**. (This threshold was established in 1978,⁶ when \$35,000 had purchasing power equivalent to about \$100,000 today.⁷) The Commission generally ranks these offenses at SL 6, significantly higher than offenses above the \$5,000 threshold. There are two ranking outliers on the low side: in excess of \$35,000, **financial transaction card fraud** and **check forgery** are ranked at SL 5. There are also two ranking outliers on the high side:

- At all monetary thresholds, **financial exploitation of a vulnerable adult** is ranked higher than its theft counterparts, and its over-\$35,000 crime is likewise ranked at SL 7.
- The crime of **identity theft** is ranked at SL 8 if the offense involves eight or more direct victims, or if the total, combined loss to the direct and indirect victims is more than \$35,000. Identity theft is the only theft-related crime that is ranked above the disposition line—that is, the line at which the Guidelines presume executed prison for all, even first offenders—although, interestingly, its lower-threshold counterparts follow the general ranking pattern of SL 3 (above \$2,500) and SL 2 (\$2,500 or less).

Ranking Theft-Related Offenses by Type Property Stolen or Special Circumstances

In addition to ranking theft offenses by monetary value, the Commission ranks some offenses by the type of property stolen, or the circumstances in which the theft occurred. These offenses are listed in Table 2, on p. 5.

Staff has previously identified a number of apparent gaps and anomalies pertaining to some of the offenses in Table 2.⁸ For example, permanent theft of a motor vehicle is ranked at SL 4, but receiving a stolen motor vehicle (at a chop shop, for example) is ranked at SL 2 or SL 3, depending on the vehicle's value. As another

³ Minn. Stat. § 609.52, subd. 2(a)(1).

⁴ In the case of motor vehicles, the Commission does recognize an analogous distinction, ranking the permanent theft of a motor vehicle at SL 4, compared with a SL-3 ranking for motor vehicle use without consent (Minn. Stat. § 609.52 subd. 2(a)(17)).

⁵ [2007 Minn. Laws. ch. 54, art. 2, § 8](#).

⁶ The \$35,000 threshold was introduced to the theft statute by [1987 Minn. Laws. ch. 254, § 9](#).

⁷ Ian Webster, "CPI Inflation Calculator: \$35,000 in 1987 to 2026" (retrieved March 31, 2026, at <https://www.in2013dollars.com/us/inflation/1987?amount=35000>).

⁸ See the [meeting materials](#) for agenda item 7 ("Theft Offenses - Issues and Draft Solutions"), MSGC meeting of May 9, 2019.

example, theft of not more than \$1,000 from an abandoned or vacant building is ranked at SL 1—unique among theft crimes—even though the offense is nearly indistinguishable from third-degree burglary, ranked at SL 3. Rather than discussing these gaps and anomalies in detail now, staff suggests referring these issues to the Guidelines restructuring committee.

Ranking Other Theft-Related Offenses

Additional theft-related offenses are found in tables 3 and 4, on page 6. Some of the offenses in Table 3 are unusual or arcane offenses; staff does not pretend to understand why the Commission, for example, ranks some provisions of Minn. Stat. § 325D.53 at SL 6 (collusion to fix a bid on a public contract, subd. 1(2)(a)), ranks some at SL 5 (collusion to fix a market price, supply, or territory; collusion to refrain from bidding on, or otherwise interfering with competition in, a public contract, subd. 1(2)(b) or (c)), and leaves some unranked (collusion to refuse to deal with a person and business-related discrimination, subs. 1(3), 2, & 3).

Regarding Table 4, staff notes, with respect to burglary, that, in terms of severity level, the Commission equates the unpermitted entry into a building, while possessing a tool to gain access to money or property, with intent to commit a crime (second-degree burglary, Minn. Stat. § 609.582, subd. 2(a)(4)) with the simple unpermitted entry into a building with intent to steal (third-degree burglary, Minn. Stat. § 609.582, subd. 3(a)). Also, the Commission appears to view burglarizing a pharmacy as less serious than burglarizing the other buildings covered by second-degree burglary (dwellings, banks, government buildings, religious establishments, historic properties, and school buildings).

Also notable: among theft tools, the possession of only a scanning device or reencoder is ranked at SL 1. This uniquely low ranking—for possessing a tool used in identity theft—is oddly juxtaposed against a uniquely high ranking (SL 8) for high-value identity theft, discussed on the previous page.

Questions for the Commission

- What, if any, of these offenses is the Commission interested in looking at for possible reranking?
- Is the offense-group process the right process for theft-related offenses, or should there be another process?
- Is the Commission content with letting the restructuring committee take the first crack at resolving some of the gaps and anomalies pertaining to the offenses in Table 2 (see footnote 8)?

Table 1. Theft & Theft Related Offenses (N = Offenses Sentenced 2015–2024)

THEFTS AND THEFT RELATED OFFENSES				SEVERITY LEVEL							
	Statute	Offense	N	1	2	3	4	5	6	7	8
THEFTS ON THE THEFT OFFENSE LIST	176.178	Workers Compensation Fraud	0		< \$5K	\$5K +			\$35K +		
	256.98	Wrongfully Obtaining Assistance	389		< \$5K	\$5K +					
	268.182	Unemployment Benefit Fraud	43		< \$5K	\$5K +					
	268B.185	Family and Medical Benefit Fraud	0		< \$5K	\$5K +					
	393.07 subd. 10	Federal Food Stamp Program	10		< \$5K	\$5K +					
	471.392	False Declaration of Claim	0		< \$5K	\$5K +					
	514.02 subd. 1(b)	Non-payment for Improvement	8		< \$5K	\$5K +					
	609.445	Failure to Pay Over State Funds	1		< \$5K	\$5K +					
	609.455	Permitting False Claims Against Gov.	0		< \$5K	\$5K +					
	609.465	Presen False Claims to Public Officer	0		< \$5K	\$5K +					
	609.52	Theft of Public Funds	26		< \$5K	\$5K +					
	609.52 subd. 2(a)(1)	Theft of Movable Property	7,451		< \$5K	\$5K +					
	609.52 subd. 2(a)(2)	Taking Pledged Property	16		< \$5K	\$5K +					
	609.52 subd. 2(a)(3)(i)	Theft By Check	91		< \$5K	\$5K +				\$35K +	
	609.52 subd. 2(a)(3)(ii)(iv)(v)	Theft By False Representation	98		< \$5K	\$5K +				\$35K +	
	609.52 subd. 2(a)(4)	Theft by Swindle	1,400		< \$5K	\$5K +				\$35K +	
	609.52 subd. 2(a)(5)	Temporary Theft	257		< \$5K	\$5K +					
	609.52 subd. 2(a)(6)	Finds Lost Property	26		< \$5K	\$5K +					
	609.52 subd. 2(a)(7)	Coin Operated Machine	0		< \$5K	\$5K +					
	609.52 subd. 2(a)(9)	Leased/Rented Property	101		< \$5K	\$5K +					
	609.52 subd. 2(a)(10)(11)	Alter/Remove ID/Serial Number	1		< \$5K	\$5K +					
	609.52 subd. 2(a)(12)(13)(14)	Not Pay for Services/Cable/Telecom	24		< \$5K	\$5K +					
	609.52 subd. 2(a)(18)	Taking Retail Motor Fuel w/o Consent	1		< \$5K	\$5K +					
609.52 subd. 2(a)(15)(16)	Fraudulent Diversion Corp. Property	10		< \$5K	\$5K +				\$35K +		
609.52 subd. 2(a)(19)	Wage Theft	0		< \$5K	\$5K +				\$35K +		
609.542 subd. 4	Unauthorized Human Services Rem.	0		< \$5K	\$5K +				\$35K +		
609.52 subd. 3a(1); 3a(2)	Theft w/Risk of Bodily Harm	28		< \$1K	\$501-\$1K & Prior \$1K-\$5K	\$5K +					
609.522	Organized Retail Theft (est. 2023)	0		< \$1K	\$501-\$1K & Prior \$1K-\$5K	\$5K +					
609.89 ; 609.88	Computer Theft/Damage	37		< \$2.5K	\$2.5K +						
609.527	Identity Theft	1,001		\$501-\$2.5K	\$2.5K+ - 35K					\$35K +	
609.821	Financial Trans. Card Fraud (FTCF)	2,644	1 act	< \$2.5K	\$2.5K+ - 35K			\$35K +			
609.2335	Financial Exploit Vulnerable Adult	268					< \$5K	\$5K - 35K		\$35K +	

THEFTS AND THEFT RELATED OFFENSES				SEVERITY LEVEL							
	Statute	Offense	N	1	2	3	4	5	6	7	8
	609.466 or 609.52 subd. 2(a)(3)(iii)	Medical Assistance Fraud	157		< \$5K	\$5K+ - 35K			\$35K +		
RSP	609.526	Precious/Scrap Metal Dealers, Receiving Stolen Goods	1		\$501-\$1K	\$1K +	2 nd or subseq.				
	609.53	Receiving Stolen Goods	4,080		< \$5K	\$5K +	Fire-arm				
	609.525	Bringing Stolen Goods into State	10		\$1K-\$5K < \$1K + prior	\$5K +					
	609.632 subd. 3	Offer Counterfeit Currency	135		\$1K-\$5K < \$1K + prior	\$5K - 35K			\$35K +		

Table 2. Theft Rankings Related to Property Stolen or Circumstances of Theft (N = Offenses Sentenced 2015–2024)

Theft Rankings Related to Property Stolen or Circumstances of Theft				SEVERITY LEVEL							
	Statute	Offense	N	1	2	3	4	5	6	7	8
MV	609.52 subd. 2(a)(1)	Permanent Motor Vehicle Theft	594				All				
	609.52 subd. 2(a)(17)	Motor Vehicle Use Without Consent	4,280			All					
MONETARY THRESHOLD NA	609.52 subd.3(3)(d)(i)	Theft from Person	555				All				
	609.52 subd.3(1)	Theft of Firearm	263				All				
	609.52 subd.3(2)	Theft of Incendiary Device	0				All				
	609.52 subd.3(2)	Theft of Controlled Substance Sch. I or II	120				All				
	609.52 subd.3(3)(b)	Theft of Controlled Substance Sch. III, IV, V	53			All					
	609.52 subd.3(3)(d)(ii) (?)	Theft of Public Records	3			All					
	609.52 subd. 2(a)(8)	Theft of Trade Secret	1			All					
	609.52 subd.3(3)(d)(iii) (?)	Looting	0		All						
	609.52 subd.3(3)(d)(iii)	Theft from Abandoned/Vacant Bldg under \$1K	4	All							

Table 3. Forgery, Corporate Crimes, & Property Crimes Related to the Government and Gambling (N = Offenses Sentenced 2015–2024)

FORGERY, CORPORATE CRIMES & PROPERTY CRIMES (GOVERNMENT/GAMBLING)				SEVERITY LEVEL						
	Statute	Offense	N	1	2	3	4	5	6	Unranked
Forgery/Corp.	609.631	Check Forgery	3,539	< \$250	\$251-\$2.5K	\$2.5K - 35K		\$35K +		
	609.63	Forgery (non-check)	95	All						
	609.625	Aggravated Forgery (non-check)	109		All					
	325D.53	Price Fixing/Collusive Bidding	0					Market-price fixing	Bid-rigging	Boycott/discrimination
	80A.68; 80B.10; 80C.16	Security Violations	0			< \$2.5K	\$2.5K +			
	609.635	Obtaining Signature by False Pretense	0		All					
	609.64	Filing or Recording a Forged Instrument	2		All					
Property Crimes Government/Gambling	609.42, subd. 1	Bribery	23				All			
	211B.13	Bribe Voter	0				All			
	609.76	Gambling Acts	6				Sports Book-making			Cheating, devices, manuf./sale mod devices, chips
	297E.13	Gambling Tax	0			All				
	297I.90	Insurance Tax	0			All				
	289A.63	Tax Evasion	223			All				
	609.593	Damage/Theft Energy Transmission, Telecom.	22			All				
	609.529	Mail Theft	361		All					
	256.984	False Declaration-Public Assistance Application	16	All						
	609.651	State Lottery Fraud	99	< \$35K						\$35K +

Table 4. Offenses Related to Burglary & Theft-Tool Related Offenses (N = Offenses Sentenced 2015–2024)

BURGLARY AND BURGLARY RELATED OFFENSES			SEVERITY LEVEL					
Statute	Offense	N	1	2	3	4	5	6
609.582	Burglary 1 (assault & weapons offenses omitted)	1,437						Occupied Dwelling
609.582	Burglary 2	3,193				Pharmacy/Tool	Dwelling/Bank/School	
609.582	Burglary 3	4,005			Shoplift/2nd	Building		
609.59	Possess Burglary Tool	1,187			Possess Tool			
609.586	Possess Code-Grabbing Device	0			Possess CGD			
609.521	Possess Shoplifting Gear	273			Possess Shoplift			
609.527	Possess/Use Scanning Device/Reencoder	12		Possess Reencoder				