

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 2354

- 03/13/2025 Authored by Norris, Schomacker, Noor, Hicks, Gander and others
- 03/17/2025 The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
- 03/20/2025 By motion, recalled and re-referred to the Committee on Human Services Finance and Policy
- 03/26/2025 Adoption of Report: Re-referred to the Committee on Public Safety Finance and Policy
- 03/27/2025 Adoption of Report: Amended and re-referred to the Committee on State Government Finance and Policy
- 04/07/2025 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
- 03/05/2026 Adoption of Report: Re-referred to the Committee on Human Services Finance and Policy
- 03/16/2026 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
- 03/16/2026 Adoption of Report: Re-referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act

1.2 relating to consumer protection; adding and modifying provisions governing

1.3 medical assistance fraud; providing the attorney general certain subpoena and

1.4 enforcement authority; providing criminal penalties; making conforming changes;

1.5 appropriating money; amending Minnesota Statutes 2024, sections 8.16, subdivision

1.6 1; 609.52, subdivision 2; Minnesota Statutes 2025 Supplement, sections 256B.12;

1.7 609.902, subdivision 4; 628.26; proposing coding for new law in Minnesota

1.8 Statutes, chapter 609; repealing Minnesota Statutes 2024, section 609.466.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2024, section 8.16, subdivision 1, is amended to read:

1.11 Subdivision 1. **Authority.** (a) The attorney general, or any deputy, assistant, or special

1.12 assistant attorney general whom the attorney general authorizes in writing, has the authority

1.13 in any county of the state to subpoena and require the production of: (1) any records of: (i)

1.14 telephone companies, cellular phone companies, and paging companies; (ii) subscribers of

1.15 private computer networks, including Internet service providers or computer bulletin board

1.16 systems; (iii) electric companies, gas companies, and water utilities; (iv) chemical suppliers;

1.17 (v) hotels and motels; (vi) pawn shops; (vii) airlines, buses, taxis, and other entities engaged

1.18 in the business of transporting people; and (viii) freight companies, self-service storage

1.19 facilities, warehousing companies, package delivery companies, and other entities engaged

1.20 in the businesses of transport, storage, or delivery, and; (2) wage and employment records;

1.21 (3) records of the existence of safe deposit box account numbers and customer savings and

1.22 checking account numbers maintained by financial institutions and safe deposit companies;

1.23 (4) insurance records related to claim settlement; and (5) the banking, credit card, and

1.24 financial records, including but not limited to a safe deposit, loan and account application

1.25 and agreement, signature card, statement, check, transfer, account authorization, safe deposit

2.1 access record, and documentation of fraud, that belong to the subject of an investigation
2.2 conducted pursuant to the attorney general's authority under section 256B.12, whether the
2.3 record is held in the investigation subject's name or in another person's name.

2.4 (b) Subpoenas may only be issued for records that are relevant to an ongoing legitimate
2.5 law enforcement investigation.

2.6 Sec. 2. Minnesota Statutes 2025 Supplement, section 256B.12, is amended to read:

2.7 **256B.12 LEGAL REPRESENTATION.**

2.8 The attorney general or the appropriate county attorney appearing at the direction of the
2.9 attorney general shall be the attorney for the state agency, and the county attorney of the
2.10 appropriate county shall be the attorney for the county agency in all matters pertaining
2.11 hereto. To prosecute under this chapter or sections ~~609.466~~ 609.467; 609.52, subdivision
2.12 2; and 609.542 or to recover payments wrongfully made under this chapter, the attorney
2.13 general or the appropriate county attorney, acting independently or at the direction of the
2.14 attorney general may institute a criminal or civil action.

2.15 Sec. 3. **[609.467] MEDICAL ASSISTANCE FRAUD.**

2.16 Subdivision 1. Medical assistance fraud prohibited. A person who does any of the
2.17 following is guilty of medical assistance fraud and may be sentenced as provided in
2.18 subdivision 2:

2.19 (1) acting with intent to defraud, executes or participates in, or attempts or conspires to
2.20 execute or participate in, a scheme or artifice to obtain, by means of any false or fraudulent
2.21 pretenses, representations, or promises, or concealment of any material fact, any money or
2.22 credits relating to the payment of medical assistance funds under chapter 256B;

2.23 (2) acting with intent to defraud, presents, submits, tenders, offers, or participates in, or
2.24 attempts or conspires to execute or participate in, the preparation of a claim for payment,
2.25 claim for reimbursement, cost report, or rate application, knowing or having reason to know
2.26 that any part of the claim, report, or application is ineligible for payment or reimbursement;

2.27 (3) acting with intent to defraud, knowingly provides false information or intentionally
2.28 omits material information as part of any enrollment application, provider agreement, or
2.29 ownership and management disclosure required by any state or federal law as a medical
2.30 assistance provider under chapter 256B or 245A;

2.31 (4) owns, operates, manages, or exercises control over any entity receiving medical
2.32 assistance funds, while knowing or having reason to know that the person has been suspended

3.1 or prohibited from enrolling as a medical assistance provider by any state agency or under
3.2 any state law, or is excluded or prohibited from enrolling as a medical assistance provider
3.3 by any federal agency or under any federal law;

3.4 (5) knowingly and intentionally permits another person to own, operate, manage, or
3.5 exercise control over any entity receiving medical assistance funds, while knowing or having
3.6 reason to know the other person is suspended or prohibited from enrolling as a medical
3.7 assistance provider by any state agency or under any state law, or excluded or prohibited
3.8 from enrolling as a medical assistance provider by any federal agency or under any federal
3.9 law;

3.10 (6) falsely makes or alters any record relating to the delivery of medical assistance
3.11 services, so that it purports to have been made by another or by the maker or alterer under
3.12 an assumed or fictitious name, or at another time, or with different provisions, or by the
3.13 authority of one who did not give such authority;

3.14 (7) acting with intent to defraud, presents, submits, tenders, offers, or participates in, or
3.15 attempts or conspires to execute or participate in, the preparation of a claim for
3.16 reimbursement for personal care assistance services under chapter 256B, knowing or having
3.17 reason to know that qualified professional or other supervision was not provided according
3.18 to law; or

3.19 (8) after receiving a lawful request for records by any state agency or law enforcement
3.20 agency, intentionally destroys, or attempts or conspires to destroy, medical, health care, and
3.21 financial records required to be maintained under chapter 245A or 256B or rules adopted
3.22 pursuant to those chapters.

3.23 Subd. 2. **Penalties.** (a) A person who is convicted under subdivision 1 may be sentenced
3.24 to imprisonment for not more than ten years or to payment of not more than \$20,000, or
3.25 both.

3.26 (b) A person who is convicted under subdivision 1 may be sentenced to imprisonment
3.27 for not more than 20 years or to payment of not more than \$100,000, or both, if the violation
3.28 causes a loss to any victim in an aggregate amount of more than \$100,000, but not more
3.29 than \$1,000,000.

3.30 (c) A person who is convicted under subdivision 1 may be sentenced to imprisonment
3.31 for not more than 30 years or to payment of not more than \$1,000,000, or both, if the violation
3.32 causes a loss to any victim in an aggregate amount of more than \$1,000,000.

4.1 Subd. 3. **Failure to keep or maintain medical assistance records.** A person who
4.2 submits a claim for reimbursement, claim for payment, claim for reimbursement cost report,
4.3 or rate application and knowingly and intentionally fails to maintain medical, health care,
4.4 and financial records as required under chapter 245A or 256B or rules adopted pursuant to
4.5 those chapters is guilty of a gross misdemeanor.

4.6 Subd. 4. **Continuing offense.** For purposes of calculating the statute of limitations
4.7 identified in section 628.26, any violation of subdivision 1 or 3 is a continuing offense. Any
4.8 violation of subdivision 1 or 3 extends to any act committed during the course of the scheme,
4.9 conspiracy, or conduct and is within the statute of limitations identified in section 628.26
4.10 so long as any part of the continuing scheme, conspiracy, or conduct comprising a violation
4.11 occurred within the identified statute of limitations.

4.12 Subd. 5. **Venue.** Notwithstanding anything to the contrary in section 627.01, a violation
4.13 of this section may be prosecuted in:

4.14 (1) the county where any part of the offense occurred; or

4.15 (2) the county where the entity who received a claim for payment, claim for
4.16 reimbursement, cost report, or rate application is located.

4.17 Subd. 6. **Restitution.** The court may order a person convicted of violating this section
4.18 to pay restitution for any costs, expenses, or losses resulting from the crime and for costs,
4.19 expenses, or losses resulting from similar conduct that was related to the offense but was
4.20 not charged. The court may order restitution for similar conduct that was related to the
4.21 offense if the related conduct occurred within the applicable statute of limitations and the
4.22 prosecutor provides notice of intent to seek restitution for that conduct at least five business
4.23 days before the sentencing hearing. The offender may challenge restitution as provided in
4.24 section 611A.045, subdivision 3. A dispute as to whether restitution is for similar conduct
4.25 that was related to the offense must be resolved by the court by the preponderance of the
4.26 evidence. The burden of demonstrating that the court may order restitution for any costs,
4.27 expense, or loss described in this subdivision is on the prosecution.

4.28 **EFFECTIVE DATE.** This section is effective August 1, 2026, and applies to crimes
4.29 committed on or after that date.

4.30 Sec. 4. Minnesota Statutes 2024, section 609.52, subdivision 2, is amended to read:

4.31 Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft
4.32 and may be sentenced as provided in subdivision 3:

5.1 (1) intentionally and without claim of right takes, uses, transfers, conceals or retains
5.2 possession of movable property of another without the other's consent and with intent to
5.3 deprive the owner permanently of possession of the property; or

5.4 (2) with or without having a legal interest in movable property, intentionally and without
5.5 consent, takes the property out of the possession of a pledgee or other person having a
5.6 superior right of possession, with intent thereby to deprive the pledgee or other person
5.7 permanently of the possession of the property; or

5.8 (3) obtains for the actor or another the possession, custody, or title to property of or
5.9 performance of services by a third person by intentionally deceiving the third person with
5.10 a false representation which is known to be false, made with intent to defraud, and which
5.11 does defraud the person to whom it is made. "False representation" includes without
5.12 limitation:

5.13 (i) the issuance of a check, draft, or order for the payment of money, except a forged
5.14 check as defined in section 609.631, or the delivery of property knowing that the actor is
5.15 not entitled to draw upon the drawee therefor or to order the payment or delivery thereof;
5.16 or

5.17 (ii) a promise made with intent not to perform. Failure to perform is not evidence of
5.18 intent not to perform unless corroborated by other substantial evidence; or

5.19 ~~(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost~~
5.20 ~~report used to establish a rate or claim for payment for medical care provided to a recipient~~
5.21 ~~of medical assistance under chapter 256B, which intentionally and falsely states the costs~~
5.22 ~~of or actual services provided by a vendor of medical care; or~~

5.23 ~~(iv)~~ (iii) the preparation or filing of a claim for reimbursement for providing treatment
5.24 or supplies required to be furnished to an employee under section 176.135 which intentionally
5.25 and falsely states the costs of or actual treatment or supplies provided; or

5.26 ~~(v)~~ (iv) the preparation or filing of a claim for reimbursement for providing treatment
5.27 or supplies required to be furnished to an employee under section 176.135 for treatment or
5.28 supplies that the provider knew were medically unnecessary, inappropriate, or excessive;
5.29 or

5.30 (4) by swindling, whether by artifice, trick, device, or any other means, obtains property
5.31 or services from another person; or

5.32 (5) intentionally commits any of the acts listed in this subdivision but with intent to
5.33 exercise temporary control only and:

6.1 (i) the control exercised manifests an indifference to the rights of the owner or the
6.2 restoration of the property to the owner; or

6.3 (ii) the actor pledges or otherwise attempts to subject the property to an adverse claim;
6.4 or

6.5 (iii) the actor intends to restore the property only on condition that the owner pay a
6.6 reward or buy back or make other compensation; or

6.7 (6) finds lost property and, knowing or having reasonable means of ascertaining the true
6.8 owner, appropriates it to the finder's own use or to that of another not entitled thereto without
6.9 first having made reasonable effort to find the owner and offer and surrender the property
6.10 to the owner; or

6.11 (7) intentionally obtains property or services, offered upon the deposit of a sum of money
6.12 or tokens in a coin or token operated machine or other receptacle, without making the
6.13 required deposit or otherwise obtaining the consent of the owner; or

6.14 (8) intentionally and without claim of right converts any article representing a trade
6.15 secret, knowing it to be such, to the actor's own use or that of another person or makes a
6.16 copy of an article representing a trade secret, knowing it to be such, and intentionally and
6.17 without claim of right converts the same to the actor's own use or that of another person. It
6.18 shall be a complete defense to any prosecution under this clause for the defendant to show
6.19 that information comprising the trade secret was rightfully known or available to the
6.20 defendant from a source other than the owner of the trade secret; or

6.21 (9) leases or rents personal property under a written instrument and who:

6.22 (i) with intent to place the property beyond the control of the lessor conceals or aids or
6.23 abets the concealment of the property or any part thereof; or

6.24 (ii) sells, conveys, or encumbers the property or any part thereof without the written
6.25 consent of the lessor, without informing the person to whom the lessee sells, conveys, or
6.26 encumbers that the same is subject to such lease or rental contract with intent to deprive the
6.27 lessor of possession thereof; or

6.28 (iii) does not return the property to the lessor at the end of the lease or rental term, plus
6.29 agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the
6.30 property; or

6.31 (iv) returns the property to the lessor at the end of the lease or rental term, plus
6.32 agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the
6.33 written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

7.1 For the purposes of items (iii) and (iv), the value of the property must be at least \$100.

7.2 Evidence that a lessee used a false, fictitious, or not current name, address, or place of
7.3 employment in obtaining the property or fails or refuses to return the property or pay the
7.4 rental contract charges to lessor within five days after written demand for the return has
7.5 been served personally in the manner provided for service of process of a civil action or
7.6 sent by certified mail to the last known address of the lessee, whichever shall occur later,
7.7 shall be evidence of intent to violate this clause. Service by certified mail shall be deemed
7.8 to be complete upon deposit in the United States mail of such demand, postpaid and addressed
7.9 to the person at the address for the person set forth in the lease or rental agreement, or, in
7.10 the absence of the address, to the person's last known place of residence; or

7.11 (10) alters, removes, or obliterates numbers or symbols placed on movable property for
7.12 purpose of identification by the owner or person who has legal custody or right to possession
7.13 thereof with the intent to prevent identification, if the person who alters, removes, or
7.14 obliterates the numbers or symbols is not the owner and does not have the permission of
7.15 the owner to make the alteration, removal, or obliteration; or

7.16 (11) with the intent to prevent the identification of property involved, so as to deprive
7.17 the rightful owner of possession thereof, alters or removes any permanent serial number,
7.18 permanent distinguishing number or manufacturer's identification number on personal
7.19 property or possesses, sells or buys any personal property knowing or having reason to
7.20 know that the permanent serial number, permanent distinguishing number or manufacturer's
7.21 identification number has been removed or altered; or

7.22 (12) intentionally deprives another of a lawful charge for cable television service by:

7.23 (i) making or using or attempting to make or use an unauthorized external connection
7.24 outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or
7.25 other connection; or by

7.26 (ii) attaching any unauthorized device to any cable, wire, microwave, or other component
7.27 of a licensed cable communications system as defined in chapter 238. Nothing herein shall
7.28 be construed to prohibit the electronic video rerecording of program material transmitted
7.29 on the cable communications system by a subscriber for fair use as defined by Public Law
7.30 94-553, section 107; or

7.31 (13) except as provided in clauses (12) and (14), obtains the services of another with
7.32 the intention of receiving those services without making the agreed or reasonably expected
7.33 payment of money or other consideration; or

8.1 (14) intentionally deprives another of a lawful charge for telecommunications service
8.2 by:

8.3 (i) making, using, or attempting to make or use an unauthorized connection whether
8.4 physical, electrical, by wire, microwave, radio, or other means to a component of a local
8.5 telecommunication system as provided in chapter 237; or

8.6 (ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other
8.7 component of a local telecommunication system as provided in chapter 237.

8.8 The existence of an unauthorized connection is prima facie evidence that the occupier
8.9 of the premises:

8.10 (A) made or was aware of the connection; and

8.11 (B) was aware that the connection was unauthorized;

8.12 (15) with intent to defraud, diverts corporate property other than in accordance with
8.13 general business purposes or for purposes other than those specified in the corporation's
8.14 articles of incorporation; or

8.15 (16) with intent to defraud, authorizes or causes a corporation to make a distribution in
8.16 violation of section 302A.551, or any other state law in conformity with it; or

8.17 (17) takes or drives a motor vehicle without the consent of the owner or an authorized
8.18 agent of the owner, knowing or having reason to know that the owner or an authorized agent
8.19 of the owner did not give consent; or

8.20 (18) intentionally, and without claim of right, takes motor fuel from a retailer without
8.21 the retailer's consent and with intent to deprive the retailer permanently of possession of
8.22 the fuel by driving a motor vehicle from the premises of the retailer without having paid
8.23 for the fuel dispensed into the vehicle; or

8.24 (19) commits wage theft under subdivision 1, clause (13).

8.25 (b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove
8.26 the vehicle from the premises of the retailer without having paid for the fuel permits the
8.27 factfinder to infer that the driver acted intentionally and without claim of right, and that the
8.28 driver intended to deprive the retailer permanently of possession of the fuel. This paragraph
8.29 does not apply if: (1) payment has been made to the retailer within 30 days of the receipt
8.30 of notice of nonpayment under section 604.15; or (2) a written notice as described in section
8.31 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not

9.1 apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been
9.2 reported stolen before the theft of the fuel.

9.3 **EFFECTIVE DATE.** This section is effective August 1, 2026, and applies to crimes
9.4 committed on or after that date.

9.5 Sec. 5. Minnesota Statutes 2025 Supplement, section 609.902, subdivision 4, is amended
9.6 to read:

9.7 Subd. 4. **Criminal act.** "Criminal act" means conduct constituting, or a conspiracy or
9.8 attempt to commit, a felony violation of chapter 152, or a felony violation of section 299F.79;
9.9 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223;
9.10 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.342; 609.343; 609.344;
9.11 609.345; 609.42; 609.467; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52,
9.12 subdivision 2, if the offense is punishable under subdivision 3, clause (1), if the property is
9.13 a firearm, clause (3)(b), or clause (3)(d)(v); section 609.52, subdivision 2, paragraph (a),
9.14 clause (1) or (4); 609.527, if the crime is punishable under subdivision 3, clause (4); 609.528,
9.15 if the crime is punishable under subdivision 3, clause (4); 609.53; 609.561; 609.562; 609.582,
9.16 subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86;
9.17 609.894, subdivision 3 or 4; 609.895; 624.713; 624.7191; or 626A.02, subdivision 1, if the
9.18 offense is punishable under section 626A.02, subdivision 4, paragraph (a). "Criminal act"
9.19 also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation
9.20 of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an
9.21 insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service
9.22 plan corporation regulated under chapter 62C, a health maintenance organization regulated
9.23 under chapter 62D, ~~or~~ a fraternal benefit society regulated under chapter 64B, or any state
9.24 agency.

9.25 Sec. 6. Minnesota Statutes 2025 Supplement, section 628.26, is amended to read:

9.26 **628.26 LIMITATIONS.**

9.27 (a) Indictments or complaints for any crime resulting in the death of the victim may be
9.28 found or made at any time after the death of the person killed.

9.29 (b) Indictments or complaints for a violation of section 609.25 may be found or made
9.30 at any time after the commission of the offense.

10.1 (c) Indictments or complaints for violation of section 609.282 may be found or made at
10.2 any time after the commission of the offense if the victim was under the age of 18 at the
10.3 time of the offense.

10.4 (d) Indictments or complaints for violation of section 609.282 where the victim was 18
10.5 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2),
10.6 shall be found or made and filed in the proper court within six years after the commission
10.7 of the offense.

10.8 (e) Indictments or complaints for violation of sections 609.322, 609.342 to 609.345, and
10.9 609.3458 may be found or made at any time after the commission of the offense.

10.10 (f) Indictments or complaints for a violation of section 609.561 shall be found or made
10.11 and filed in the proper court within ten years after the commission of the offense.

10.12 (g) Indictments or complaints for violation of sections ~~609.466~~ 609.467 and 609.52,
10.13 subdivision 2, paragraph (a), clause (3), item (iii), shall be found or made and filed in the
10.14 proper court within six years after the commission of the offense.

10.15 (h) Indictments or complaints for violation of section 609.2335, 609.52, subdivision 2,
10.16 paragraph (a), clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where
10.17 the value of the property or services stolen is more than \$35,000, or for violation of section
10.18 609.527 where the offense involves eight or more direct victims or the total combined loss
10.19 to the direct and indirect victims is more than \$35,000, shall be found or made and filed in
10.20 the proper court within five years after the commission of the offense.

10.21 (i) Except for violations relating to false material statements, representations or omissions,
10.22 indictments or complaints for violations of section 609.671 shall be found or made and filed
10.23 in the proper court within five years after the commission of the offense.

10.24 (j) Indictments or complaints for violation of sections 609.562 and 609.563, shall be
10.25 found or made and filed in the proper court within five years after the commission of the
10.26 offense.

10.27 (k) Indictments or complaints for violation of section 609.746 shall be found or made
10.28 and filed in the proper court within the later of three years after the commission of the
10.29 offense or three years after the offense was reported to law enforcement authorities.

10.30 (l) In all other cases, indictments or complaints shall be found or made and filed in the
10.31 proper court within three years after the commission of the offense.

10.32 (m) The limitations periods contained in this section shall exclude any period of time
10.33 during which the defendant was not an inhabitant of or usually resident within this state.

11.1 (n) The limitations periods contained in this section for an offense shall not include any
11.2 period during which the alleged offender participated under a written agreement in a pretrial
11.3 diversion program relating to that offense.

11.4 (o) The limitations periods contained in this section shall not include any period of time
11.5 during which physical evidence relating to the offense was undergoing DNA analysis, as
11.6 defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law
11.7 enforcement agency purposefully delayed the DNA analysis process in order to gain an
11.8 unfair advantage.

11.9 **Sec. 7. APPROPRIATION.**

11.10 \$1,230,000 in fiscal year 2027 is appropriated from the general fund to the attorney
11.11 general to combat medical assistance fraud under Minnesota Statutes, section 609.467.

11.12 **Sec. 8. REPEALER.**

11.13 Minnesota Statutes 2024, section 609.466, is repealed.

APPENDIX
Repealed Minnesota Statutes: H2354-3

609.466 MEDICAL ASSISTANCE FRAUD.

Any person who, with the intent to defraud, presents a claim for reimbursement, a cost report or a rate application, relating to the payment of medical assistance funds pursuant to chapter 256B, to the state agency, which is false in whole or in part, is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.