

Ala. Code 1975, § 13A-9-150(d)

Public Assistance Fraud
(Administrator or Distributor)

The defendant is charged with public assistance fraud.

A person commits the crime of public assistance fraud if he/she has duties in the administration of a public assistance program or in the distribution of public assistance or with authorization or identification to obtain public assistance and knowingly does any of the following: **[Read all appropriate]**

- (1) Fraudulently misappropriates, attempts to misappropriate, knowingly fails to disclose fraudulent activity, or aids and abets in the misappropriation of a food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or any other public assistance program with which he/she has been entrusted or of which he/she has gained possession by virtue of his/her position; **(OR)**
- (2) Knowingly misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant had duties in the administration of a public assistance program or in the distribution of public assistance or with authorization or identification to obtain public assistance;
- (2) The Defendant did the following: **[Read all appropriate]**
 - (a) Fraudulently misappropriated, attempted to misappropriate, knowingly failed to disclose fraudulent activity, or aided and abetted in the misappropriation of a food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or any other public assistance program with which he/she had been entrusted or of which he/she had gained possession by virtue of his/her position; **(OR)**
 - (b) Knowingly misappropriated, attempted to misappropriate, or aided and abetted in the misappropriation of funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization; **(AND)**

(3) The Defendant did so knowingly.

Public Assistance means money or property provided directly or indirectly to eligible persons through programs of the federal government, the state, or any political subdivision thereof, including any program administered by a public housing authority. [13A-9-150(a)]

[Read as appropriate]:

1. Public assistance fraud includes the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, fraudulent billing or charging, and the stealing of financial instruments, data, and other assets. [13A-9-150(g)]

2. A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

[Read as appropriate]: The introduction into evidence of a paid state warrant to the order of the defendant is prima facie evidence that the defendant did receive public assistance from the state. [13A-9-150(i)]

[Read as appropriate]: The introduction into evidence of a transaction history generated by a personal identification number (PIN) establishing a purchase or withdrawal by electronic benefit transfer is prima facie evidence that the identified recipient received public assistance from the state. [13A-9-150(j)]

[Read as appropriate]: The value of a food assistance authorization benefit shall be equal to the cash or exchange value unlawfully obtained by the fraudulent act committed. [13A-9-150(f)]

A person acts *knowingly* with respect to conduct or to a circumstance when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

[Read as appropriate]:

1. Repayment of public assistance benefits or services or return of authorization or identification wrongfully obtained is not a defense to, or ground for dismissal of, criminal charges brought under this section. However, in situations in which a hospital, or an employee, agent, contractor, subcontractor, or independent contractor of a hospital, or a physician or his/her employee, agent, contractor, subcontractor, or independent contractor has overbilled or received an overpayment for a medical or health care service or improperly charted, coded, or billed for any medical or health care service, common practices, including, but not limited to, repayment, even years later, may use as a defense to, or ground for dismissal of, a prosecution under this section. [13A-9-150(h)]

2. A *hospital* includes general and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments. [22-21-20(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of public assistance fraud, then you shall find the defendant guilty of public assistance fraud.

If you find that the State has failed to prove any one or more of the elements of the offense of public assistance fraud, then you cannot find the defendant guilty of public assistance fraud.

Use Notes

Punishment depends on the aggregate value of the violation. If the aggregate value is \$200 or more, the violation is a Class C felony. If less than \$200, a Class A misdemeanor. [13A-9-150(e)] Therefore, upon a conviction, the jury must determine the value. A value charge is included above.

[Approved 9-11-15.]