

**SUBJECT:** Barring juror service for misdemeanor theft

**COMMITTEE:** Judicial Affairs — favorable, without amendment

**VOTE:** 6 ayes — Hartnett, Corte, Hughes, Rodriguez, Telford, Wilson  
1 nay — Alonzo  
2 absent — T. Smith, Solis

**SENATE VOTE:** On final passage, April 25 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** No public hearing

**BACKGROUND:** Code of Criminal Procedure (CCP), art. 19.08, and Government Code, sec. 62.102, establish requirements for a person to serve as a grand juror and as a petit juror, respectively. Among these requirements, the juror must not have been convicted of theft or of any felony and must not be under indictment or other legal accusation for theft or for any felony.

CCP, art. 35.16 allows a challenge for cause to be made by either the state or the defense during jury selection for various reasons, such as that a juror has been convicted of theft or a felony, is under indictment or other legal accusation for theft or a felony, is insane, or is a witness in the case.

**DIGEST:** SB 518 would specify that a person could not serve on a grand jury or would be subject to a challenge for cause if that person had been convicted of or was under indictment or other legal accusation for misdemeanor theft or a felony. It would specify that a person could not serve on a civil jury if that person had been convicted of or was under indictment or other legal accusation for misdemeanor theft or a felony.

The bill also would remove gender references from the statutes and would replace them with gender-neutral phrases such as “the juror.”

The bill would take effect September 1, 2003.

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**SUPPORTERS  
SAY:**

SB 518 would modernize and clarify the statutes relating to juror selection and qualifications. Currently, counties interpret the language of these statutes differently. Some allow people who have been convicted of misdemeanor theft to serve on civil juries but not on criminal juries, while others do not allow such people to serve on either type of jury. The bill would make the qualifications for jury service consistent throughout the state, promoting a more fair and equitable justice system.

SB 518 also would ensure that a person charged with or convicted of misdemeanor theft, a crime of moral turpitude, could not serve on a jury. Traditionally, people convicted of crimes of moral turpitude have been excluded from jury service because such people lack moral credibility.

**OPPONENTS  
SAY:**

By excluding from jury service those accused or convicted of misdemeanor theft, SB 518 would decrease the pool from which juries are drawn, making it more difficult for a person to be tried by a jury of his or her peers. Although misdemeanor theft may be considered a crime of moral turpitude, such a theft may involve only a few dollars. It does not make sense to exclude an otherwise qualified juror from serving because of a minor theft.

**OTHER  
OPPONENTS  
SAY:**

The bill would not go far enough in excluding from jury panels people who have committed crimes involving moral turpitude. The prohibition should be extended to people indicted for or convicted of all misdemeanors involving moral turpitude.