

SUBJECT: Qualifications for service as a grand or petit juror

COMMITTEE: Judiciary—favorable, without amendment

VOTE: 6 ayes — Hartnett, Hughes, Hopson, Gonzales, Straus, Van Arsdale
0 nays
3 absent — Alonzo, Keel, Solis

SENATE VOTE: On final passage, March 30 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — None
Against — None
On — Elizabeth Kilgo, Texas Judicial Council.

BACKGROUND: Under current law, a person convicted of or under indictment for theft or a felony is ineligible to serve on a criminal jury or on a grand jury. According to the Code of Criminal Procedure, art. 35.16, in a criminal trial, a person convicted of or under indictment for theft or a felony may be challenged for cause — i.e., the state or defense may object to the selection of a juror on those grounds.

Government Code, sec. 62.102 governs general petit jury qualifications. Individuals convicted of misdemeanor theft are eligible to serve as jurors under the general qualifications. However, an individual convicted of a felony or under indictment for a misdemeanor theft or a felony is ineligible to serve as a juror.

DIGEST: SB 451 would prohibit an individual convicted of misdemeanor theft from serving on a petit jury. It also would make language in the statutes governing grand juries, criminal juries, and petit juries gender-neutral.

The bill would take effect on September 1, 2005.

**SUPPORTERS
SAY:**

SB 952 would make qualifications to serve as a juror in a civil trial consistent with the qualifications to serve in a criminal trial or on a grand jury. It would also fix a loophole in the current law that prohibits those under indictment for misdemeanor theft from serving on a jury but not those convicted of misdemeanor theft. Because theft is a crime of moral turpitude, the public has an interest preventing these offenders from serving on a jury in civil cases.

In order to serve on a jury, a person first would need to meet the general qualifications for jury service under the Government Code, sec. 61.102. Under the current law, if the person has a misdemeanor theft conviction, the person would meet the general qualifications and then possibly be assigned to a civil or criminal trial. If the individual were assigned to a criminal trial, he or she could be disqualified due to the conviction. By disqualifying those convicted of misdemeanor theft at the outset, the bill would make the jury selection process more efficient and less costly.

**OPPONENTS
SAY:**

The bill would prohibit those convicted of a one-time petty theft offense from serving on a civil jury. People commonly make errors of judgment in their lives that do not necessarily indicate serious moral shortcomings. One minor indiscretion does not make a person unfit to serve on a jury. Moreover, merely saving money and time is not a sufficient reason to disqualify an individual from serving on a jury.