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# Just vote no on two flawed amendments

The Illinois General Assembly has placed two amendments to the Illinois Constitution on the November ballot. If three-fifths of us voters approve either of them, that amendment will become part of our constitution.

Both look like "motherhood and apple pie," but I think they are unnecessary and might backfire on those who propose them.

The first is the Voter Rights Amendment. It would add Section 8 to Article III by prohibiting denial of the right to vote "based on race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation or income."

The proponents of this amendment say it is needed to prevent passage of the voter ID laws that some Republican-dominated state legislatures have passed to make it harder for voters to register to vote and cast ballots. Some proponents maintain it establishes a "strict scrutiny" test to prevent fraudulent voting practices.

The amendment's first problem is that it is unnecessary. The Illinois courts have interpreted state constitutional provisions on voting very strictly and in favor of the voter. There is no provision in the Illinois statutes nor is there any provision looming on the horizon that would impede voting based on any of the above factors.

Second, there is a mixed legislative history that the courts would have to sort out if the amendment passes. Some legislators said in debates that they were voting for the amendment because they thought it would prohibit the type of voter ID bill passed elsewhere, while others said they were voting for the amendment because they thought it would not prohibit a voter ID bill.

If, for example, a statute were proposed requiring that I present the voter registration card that the Chicago Board of Election Commissioners sends me every year — at no cost to me, and with no effort on my part — would this amendment prohibit such a statute? Would the amendment prohibit a statute requiring me to re-register after moving my place of residence? In both situations, the amendment falls painfully short.

Third, the list of factors does not include two huge groups: political party affiliation and physical or mental disability. Typically, at least in my lifetime, voter discrimination in Illinois has arisen because a dominant political party wanted to prevent the minority political party's voters from casting ballots.

In fact, the voter ID laws that are the impetus of this amendment are really attempts by Republicans to prevent Democrats from voting. Yet, "political party affiliation" is not a prohibited category in the proposed amendment.

Even worse, there is no mention of physical or mental disability. Surely it is not proper to make it difficult for disabled people to vote. In fact, most polling places now facilitate voting by the visually impaired and those with limited physical mobility. It is a mystery why disabled Illinoisans are not protected by the amendment.

In effect, the amendment would give special protection to people in the enumerated classes but force those with disfavored party affiliations or physical or mental disabilities to rely upon the "ordinary" protections afforded by Illinois law.

LAW AND PUBLIC ISSUES

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The other amendment is the Crime Victims' Bill of Rights Amendment. Actually, we've had a statute concerning the rights of victims of crimes on the books for years. In 1992, the legislature proposed, and the voters adopted, a provision constitutionally guaranteeing victims some rights.

If you look at Article I, Section 8.1., you'll see that it is pretty comprehensive already. As far as I can tell, neither the prosecutors nor the defense attorneys nor the judges nor the victims of crimes have any complaints about it.

The proposed amendment essentially gives the victims and their families greater rights to be notified at various stages of the proceedings and, to a certain extent, a right to be heard in court. It also mandates concern for the safety of the victims and their families.

But — and this is a big but — it also specifies that if the governmental officers do not live up to the amendment's demands, the victims and their families have no cause of action against the government. In fact, they have no right to counsel provided by the state, either.

Most crime victims are too poor to hire a lawyer and too unsophisticated to know the ways of a criminal trial. I doubt they would be able to pursue their new rights.

Let's assume, however, that a victim has the financial means and sophistication to assert rights throughout a proceeding. I know of one such instance in another state. The victim (the mother of a murdered boy) was so insistent that the prosecutor tried to have her removed from the proceedings.

What will happen if a victim objects to a plea bargain or a sentence that the victim considers too lenient? If, as the amendment says, the victim has "standing" to assert his or her rights although not a "party" to proceedings, will justice truly be served?

There are too many flaws in these amendments. When I pointed them out to a legislator, he said he'd voted for both amendments even though these issues had not been discussed in his caucus.

When I asked why, he said, "we had to vote for them." The legislators may have "had to vote" for these amendments, but we, the voters, don't.

*— Thanks to Christine Saba for her assistance.*