

# PROPOSED AMENDMENTS AND ADDITION TO THE ILLINOIS CONSTITUTION

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That will be submitted to the voters  
November 4, 2014



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This pamphlet includes  
EXPLANATION OF THE PROPOSED AMENDMENTS;  
ARGUMENTS IN FAVOR OF THE AMENDMENTS;  
ARGUMENTS AGAINST THE AMENDMENTS;  
FORM OF BALLOT

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**Jesse White • Secretary of State**

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*To the Electors of the State of Illinois:*

At the General Election to be held on the 4th day of November, 2014, you will be called upon to adopt or reject the following proposed amendments to the Illinois Constitution. As required by law, I provide you with the following information.

**JESSE WHITE**  
*Secretary of State*

The purpose of a state constitution is to establish a structure for government and laws. There are three ways to initiate change to the Illinois Constitution: (1) a constitutional convention may propose changes to any part; (2) the General Assembly may propose changes to any part; or (3) a petition initiative may propose amendments limited to structural and procedural subjects contained in the Legislative Article. The people of Illinois must approve any changes to the Constitution before they become effective.

**PROPOSED AMENDMENT  
TO SECTION 8.1 OF ARTICLE I  
OF THE ILLINOIS CONSTITUTION**

**ARTICLE I – BILL OF RIGHTS**

**SECTION 8.1. CRIME VICTIMS' ~~VICTIM'S~~ RIGHTS.**

- (a) Crime victims, as defined by law, shall have the following rights ~~as provided by law~~:
- (1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
  - (2) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.
  - (3) ~~(2)~~ The right to timely notification of all court proceedings.
  - (4) ~~(3)~~ The right to communicate with the prosecution.
  - (5) ~~(4)~~ The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing. ~~make a statement to the court at sentencing.~~
  - (6) ~~(5)~~ The right to be notified of information about the conviction, the sentence, the imprisonment, and the release of the accused.
  - (7) ~~(6)~~ The right to timely disposition of the case following the arrest of the accused.
  - (8) ~~(7)~~ The right to be reasonably protected from the accused throughout the criminal justice process.
  - (9) The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.

- (10) ~~(8)~~ The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
- (11) ~~(9)~~ The right to have present at all court proceedings, subject to the rules of evidence, an advocate and ~~or~~ other support person of the victim's choice.
- (12) ~~(10)~~ The right to restitution.
- (b) The victim has standing to assert the rights enumerated in subsection (a) in any court exercising jurisdiction over the case. The court shall promptly rule on a victim's request. The victim does not have party status. The accused does not have standing to assert the rights of a victim. The court shall not appoint an attorney for the victim under this Section. Nothing in this Section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney ~~The General Assembly may provide by law for the enforcement of this Section.~~
- (c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims' rights.
- (d) Nothing in this Section or any law enacted under this Section creates a cause of action in equity or at law for compensation, attorney's fees, or damages against the State, a political subdivision of the State, an officer, employee, or agent of the State or of any political subdivision of the State, or an officer or employee of the court. ~~or in any law enacted under~~
- (e) Nothing in this Section or any law enacted under this Section shall be construed as creating (1) a basis for vacating a conviction or (2) a ground for any relief requested by the defendant ~~appellate relief in any criminal case.~~

## **EXPLANATION**

The Constitution sets forth substantial rights for crime victims. The proposed amendment expands certain current rights:

- 1) Victims are currently entitled to fairness and respect throughout the criminal justice process. The amendment would also provide that they shall be protected from harassment, intimidation and abuse.
- 2) Victims currently can make a statement to the court when a criminal defendant is sentenced to punishment. The amendment would allow a victim to be heard at any proceeding that involves the victim's rights, and any proceeding involving a plea agreement, release of the defendant or convicted individual, or sentencing.
- 3) Victims may obtain information about conviction, sentencing, imprisonment or release. The amendment would require prosecutors and the court to notify victims of those events before they happen.

The amendment would also grant additional rights to crime victims:

- 1) A victim would have a right to formal notice and a hearing before the court rules on any request for access to the victim's information which is privileged or confidential information.

- 2) A victim would have the right to have the judge consider the victim's safety and the safety of his or her family before deciding whether to release a criminal defendant, setting the amount of bail to be paid before release, or setting conditions of release after arrest or conviction.
- 3) The victim would have the right to assert his or her rights in any court with jurisdiction over the criminal case, but would not have the same rights as the prosecutor or the criminal defendant and the court could not appoint an attorney for the victim at taxpayer expense.

The proposed amendment would not alter the powers, duties or responsibilities of the prosecutor. Further, a criminal defendant would not be able to challenge his or her conviction on the basis of a failure to follow these provisions.

### **Arguments in Favor of the Proposed Amendment**

Victims of violent crimes deserve stronger protections under the Constitution than are currently provided. Victims should not have to fear intimidation and harassment when they participate in the criminal justice process. Judges must consider a victim's safety when setting bail, deciding whether a criminal defendant should be released during his or her trial, or sentencing a convicted defendant.

Further, victims should also be allowed to object when a defendant or a defendant's attorney attempts to obtain information about the victim that is confidential or private, like the victim's mental health records or personal journals. A judge would still be able to require a victim to turn those records or communications over to the court, but the amendment would allow the victim to object if he or she feels that a privacy violation would result.

A constitutional amendment is necessary because victims need the ability to enforce their rights. This amendment would provide that judges and prosecutors have a constitutional duty to keep the victim informed of developments in the case, and to allow the victim to participate when appropriate.

### **Arguments Against the Proposed Amendment**

The proposed amendment would disrupt the criminal justice process and impede the work of prosecutors. Our criminal justice system tasks prosecutors, not victims, with punishing criminals and restoring justice after a crime is committed. Victims and their attorneys may attempt to take over that important role, second-guessing prosecutors and objecting to decisions made by judges.

Victims already have a right to be present and informed during the process, and Illinois already provides extensive rights to crime victims under the Rights of Crime Victims and Witnesses Act.

The proposed amendment threatens the rights of criminal defendants, both the guilty and the innocent. Our system gives criminal defendants the right to access information, documents and records that could prove their innocence; however, the amendment would give a victim the opportunity to prevent disclosure of certain materials or documents that might prove the defendant's innocence.

**FORM OF BALLOT**

**Proposed Amendment to the 1970 Illinois Constitution**

**Explanation of Amendment**

The proposed amendment makes changes to Section 8.1 of Article I of the Illinois Constitution, the Crime Victims' Bill of Rights. The proposed amendment would expand certain rights already granted to crime victims in Illinois, and give crime victims the ability to enforce their rights in a court of law. You are asked to decide whether the proposed amendment should become part of the Illinois Constitution.

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YES      For the proposed amendment—  
-----      of Section 8.1 of Article I  
NO        of the Illinois Constitution.  
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*To the Electors of the State of Illinois:*

The purpose of a state constitution is to establish a structure for government and laws. There are three ways to initiate change to the Illinois Constitution: (1) a constitutional convention may propose changes to any part; (2) the General Assembly may propose changes to any part; or (3) a petition initiative may propose amendments limited to structural and procedural subjects contained in the Legislative Article. The people of Illinois must approve any changes to the Constitution before they become effective.

The proposed amendment adds a new section to the Suffrage and Elections Article of the Illinois Constitution. The section would ensure no person could be denied the right to register to vote or cast a ballot based on his or her race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation, or income. At the general election to be held on November 4, 2014, you will be called upon to decide whether the proposed amendment should become part of the Illinois Constitution.

**PROPOSED AMENDMENT  
TO ADD SECTION 8 TO ARTICLE III  
OF THE ILLINOIS CONSTITUTION**

**ARTICLE III – SUFFRAGE AND ELECTIONS**

**SECTION 8. VOTER DISCRIMINATION**

No person shall be denied the right to register to vote or to cast a ballot in an election based on race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation, or income.

**EXPLANATION**

The proposed amendment would prohibit any law or procedure that intentionally discriminates or has an unequal effect upon the right of a person to register to vote or cast a ballot based on the voter's race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation, or income.

The proposed amendment does not change the requirements for voting. A voter must still be a citizen of the United States, a permanent resident of Illinois for more than 30 days, and be 18 years of age.

## **Arguments in Favor of the Proposed Amendment**

The proposed amendment is a demonstration that the people of Illinois believe all eligible Illinois citizens have a fundamental right to vote, and that laws and regulations that seek to prohibit eligible Illinois citizens from voting in an election should not be tolerated in a civil society. Under the amendment, any law or procedure that has a disparate impact upon the ability of a person to register to vote or cast a ballot based on the voter's race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation, or income would be subject to strict judicial scrutiny.

## **Arguments Against the Proposed Amendment**

This amendment is not necessary. Many of these protections are already provided by federal law. The proponents have not identified any instances of voter discrimination in Illinois that would justify the creation of a State cause of action. The proposed amendment will only serve to increase litigation.

## **FORM OF BALLOT**

### **Proposed Amendment to the 1970 Illinois Constitution**

#### **Explanation of Amendment**

The proposed amendment adds a new section to the Suffrage and Elections Article of the Illinois Constitution. The proposed amendment would prohibit any law that disproportionately affects the rights of eligible Illinois citizens to register to vote or cast a ballot based on the voter's race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation, or income. You are asked to decide whether the proposed amendment should become part of the Illinois Constitution.

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YES      For the proposed addition—  
----- of Section 8 to Article III  
NO        of the Illinois Constitution.

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**CAPITOL BUILDING**  
**SPRINGFIELD, ILLINOIS**  
**OFFICE OF THE SECRETARY OF STATE**

*I, Jesse White, Secretary of the State of Illinois, do hereby certify that the foregoing is a true copy of the Proposed Amendments, the Explanation of the Proposed Amendments, Arguments in Favor of the Amendments and Arguments Against the Amendments and a true copy of the Form of Ballot for this call as the regularly scheduled general election on Tuesday, November 4, 2014, as set forth in compliance with the Illinois Constitutional Amendment Act.*



IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of Illinois, Done in the City of Springfield, this 27th day of June, 2014.

*Jesse White*

Jesse White  
Secretary of State

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These voter information materials are available in written format in English, Chinese, Polish, Hindi and Spanish, and Braille and in audio format in English. For more information visit [www.cyberdriveillinois.com](http://www.cyberdriveillinois.com) or write the Secretary of State's office at 111 East Monroe Street, Springfield, IL 62756.

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