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Don't Victimize the Constitution

Forum

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Some bad ideas keep recycling back. The latest version of the so-called "victims' rights amendment" to the Constitution, a pandering and potentially disruptive measure, is being readied for a full Senate vote by the end of the month.

There is no question that victims of violent crime deserve respect and sympathy in the criminal process, and programs to help them recover from their trauma. But adding this amendment to the nation's bedrock charter could alter the Constitution's delicate balance between accuser and accused, and even end up subverting the victims' main interest -- timely and fair prosecution and conviction of their assailants.

To protect victims from insensitive treatment as their cases move through the criminal system, the amendment would establish a new constitutional mandate that victims be notified and allowed to participate in prosecutorial decisions and judicial proceedings. There is widespread concern among the defense bar, the law enforcement community and even some victims' rights groups that the amendment would undermine defendants' rights, give rise to litigation that delays trials and interfere with legitimate plea bargain deals and other aspects of prosecutorial discretion. States are already experimenting to find practical ways to address victims' complaints, consistent with the demands on prosecutors and constitutional protections for defendants. To the extent improvements are needed, the answer is to pass laws to fine-tune the system, not clutter the Constitution.

The bill's two main sponsors -- Senators Jon Kyl, an Arizona Republican, and Dianne Feinstein, a California Democrat -- have been busily rounding up new co-sponsors. All are supporting an amendment that could inflict unintended consequences on victims, the justice system and the Bill of Rights.

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