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Constitutional Amendment and Revision Revisited

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Abstract

State constitutional amendment and revision procedures differ substantially from formal procedures for amending the US Constitution.

Popular participation and frequent change in state constitutions contribute to significant differences between state and national constitutional politics. State constitutions are widely perceived to be “political” documents, whose amendment is not much different from ordinary legislative and electoral politics. The U.S. Constitution is regarded as relatively permanent and “above politics.” Neither perception is wholly accurate. Differences between state and national procedures and politics are at issue in the recent revival of state constitutions as sources of civil rights and liberties. An analysis of constitutional amendments suggests that use of the ballot proposition, which is unique to the states, tends to restrict civil rights somewhat in criminal justice while somewhat expanding support for new rights in other areas, including those not fully protected by the national government.

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