



## **More Evidence Against ERA**

### **ERA - 'Equal Rights' or Gender Reconstruction?**

The original time limitation for ratification (three-fourths of the states adopting its passage) was to end on March 22, 1979. When this date approached, and it became clear that it would not be ratified, Congress passed the ERA Time Extension resolution. This act changed seven years into 10 years, thus extending the date to June 30, 1982.

This created public outrage, and critics compared it to adding an extra inning to a baseball game or an extra quarter to a football game even though the game was not tied.

After a 2 ½ year lawsuit, the U.S. District Court ruled the time extension was unconstitutional (*Idaho v. Freeman*). When the case was appealed, the U.S. Supreme Court dismissed it as "moot" (*Now v. Idaho*, 459 U.S. 809), citing "the Amendment has failed of adoption no matter what the resolution of the legal issues presented here." Thus the Supreme Court ruled the ERA was dead whether it expired in 1979 or 1982.

### **NO STATES PASSED ERA AFTER TIME EXTENSION**

After Congress added more than three additional years for ERA to be ratified by three-fourths of the states, not a single state ratified it after time extension. Once scholars and constitutionalists examined the potential scope of its affects, there was great concern. However, radical feminist and homosexual groups continue to push for its resurrection.

### **ERA WOULD SUPERSEDE STATE LAW**

Section 2 of the ERA (federal version) states: "The Congress shall have the power to enforce by appropriate legislation the provisions of this article." This language is also in HJRCA 1. All laws affecting families would be superseded by the ERA, giving Congress power, and open for interpretation by the courts. Laws favoring one sex over another would likely be challenged. What would the ERA do to rape laws, for example?

### **ABORTION**

ERA would force Illinois and the other 49 states to pay for abortions.

The ACLU argument that denying abortion is sex discrimination developed when Ruth Bader Ginsburg was one of their lawyers. Is there any doubt that U.S. Supreme Court Justice Ruth Bader Ginsburg would vote for this same interpretation?

*Harris v. McRae*, 448 U.S. 297 (1980), upheld the limiting of federal funding of abortion (Hyde Amendment). ERA would require the federal and state governments to fund Medicaid abortions. Otherwise, under ERA, to not provide funding would be discrimination based on gender distinction. Our continued attempts in Illinois to ban Medicaid-funded abortions, for example, would be prohibited by the ERA. According to Eagle Forum, this is borne out by the impact of state ERAs in Connecticut and New Mexico.

In *Doe v. Maher*, on April 9, 1986, the Connecticut Supreme Court stated, "Since only women become pregnant, discrimination against pregnancy by not funding abortions ... is sex-oriented discrimination ... The

Court concludes that the regulation that restricts the funding for abortions ... Violates Connecticut's Equal Rights Amendment."

In *New Mexico Right to Choose, NARAL, et al v. Johnson*, on November 25, 1998, the New Mexico Supreme Court, in a 5-0 vote, said the state could not differentiate between abortions and medically necessary procedures sought by men. The Court ordered the state to pay for elective abortions under Medicaid.

On December 7, 2000, a state court in Texas used the Texas version of ERA to rule likewise: "[W]e hold that the State's implicit adoption of the Hyde Amendment violates the Texas Equal Rights Amendment" (*The Low-Income Women of Texas v. Bost*, Texas 3rd Court of Appeals, 36 S.W.3rd 689, 2000). The Texas Supreme Court reversed by this on December 31, 2002 because the so-called Texas ERA, thankfully, does not have the same strict language as the federal ERA.

ERA is most definitely about abortion. Wisconsin and Minnesota are two states where the legislature attempted to pass an ERA containing an abortion-neutral clause, but the ERAers themselves killed those bills.

### **PARENTAL NOTIFICATION OF A MINOR GIRL'S ABORTION**

*Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990), upheld parental notification for Ohio minor girls seeking abortions. ERA would most likely eliminate parental notification laws since under ERA those laws would be discriminatory as they apply to females only. ERA says: No distinction between genders. The ERA would, in effect, stop our efforts to pass meaningful parental notification or consent laws in Illinois.

### **MILITARY DRAFT**

*Rostker v. Goldberg*, 453 U.S. 57 (1981), allowed for an all-male draft and reaffirmed Congress' power to run the military, including differentiating between genders. ERA says: Treat men and women alike. If the draft were reinstated, women would be drafted under ERA. Not many parents want to see their daughters in combat.

### **VETERANS PROGRAMS**

In *Personnel Adm'r of Massachusetts v. Feeney*, 347 (1979), affirmed the power of states to extend benefits to veterans even though they are overwhelmingly male. ERA disallows any distinction between male and female. Therefore, under ERA veterans' benefits would cease.

### **SAME-SEX MARRIAGE**

The court ruled that same-sex marriages would have to be allowed under ERA. In *Baehr v. Lewin* (852 P 2d 44, 1993), denying marriage licenses to homosexual couple was sex discrimination and unconstitutional under Hawaii's ERA. The Court stated that allowing only heterosexual marriages was unconstitutional.

In order to undo this colossal mistake, Hawaii voters had to pass a new constitutional amendment stating that "the legislature shall have the power to reserve marriage to opposite-sex couples." This was not an easy task and cost millions.

In April 2001, seven gay and lesbian couples, financed by the same group that sued for legal civil unions in Vermont, filed a lawsuit seeking to overturn Massachusetts' ban on same-sex marriages.  
[www.rutlandherald.com/vtruling/index.html](http://www.rutlandherald.com/vtruling/index.html)

### **TAX EXEMPTIONS**

In *Bob Jones University v. United States*, 461 U.S. 574 (1983), the Court ruled that schools that discriminate in a manner prohibited by the Constitution are not allowed tax exemptions. If ERA become a part of our

Constitution, all-boy and all-girl schools will likely lose their tax-exempt status. ERA says: No distinction between genders.

### **BOY SCOUTS & GIRL SCOUTS**

In *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000), the court upheld the right of the Boy Scouts to exclude homosexuals from leadership and to also limit its membership to boys only. ERA would most likely end membership to males only and would have forced the Boy Scouts to accept homosexuals as leaders. This same girl's-only membership established by the Girl Scouts would come to an end as well. ERA prohibits all distinction between genders.

### **SPORTS**

In 1992, the Rhode Island Supreme Court relied on the **lack of** a state ERA to rule in favor of an all girl hockey league and against a challenge to include boys. (*Kleczek v. Rhode Island Interscholastic League*, 612 A.2d 734, 1992) Under ERA, all discrimination based on sex/gender would be unconstitutional. Imagine the Super Bowl with female players! In addition, the Court noted that if the state has passed ERA, it "would most likely encompass" the issue of abortion.

### **WOMEN ALREADY HAVE MADE GREAT STRIDES**

U.S. women don't really know much about discrimination. Women in many other countries are sold and traded as prostitutes, tortured and killed, treated like less than animals, and forced to abort their children if they go over the child-per-family quota.

According to the book *Women's Figures: An Illustrated Guide to the Economic Progress of Women in America*, between 1960 and 1994, women's wages grew 10 times faster than men's. The book also states that women earn about 55 percent of all associate, bachelor's and master's degrees today, in addition to nearly 40 percent of all professional degrees, including law and medicine.

More than 8.5 million women own businesses in the United States, employ 23.8 million people, and generate \$3.1 trillion in annual revenues.

According to the Small Business Administration, women will soon own 35 percent of small businesses. Where's the discrimination?!

### **LAWS PROTECTING WOMEN'S RIGHTS**

The 14th Amendment to the U.S. Constitution guarantees equal protection for everyone. Women have used this amendment successfully in discrimination cases and will continue to do so.

For 30 years "equal pay" has been law. This means paying the same wages for people who do the same work. However, differing wage earnings are based upon different factors such as: job experience, risk/danger involved, seniority, level of training, and other factors - not because of discrimination.

Even though liberal feminist groups continue to use the "equal pay" argument, the ERA would not have any effect on wages in private businesses. The ERA only applies to government entities.

Concerned Women for America is the nation's largest public policy women's organization.

**Concerned Women for America**  
of Illinois

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