

POLICY BRIEF

SJR19

Ratifying the Equal Rights Amendment (ERA) to the U.S. Constitution

An ERA Overview: In 2007, the House State Agencies Committee refused to pass this measure, and in 2009, the Senate State Agencies refused to pass it. Ratifying the ERA would make us the 36th state to ratify the Equal Rights Amendment to the U.S. Constitution. With the ratification of 38 states the measure could become the 28th amendment to the U.S. Constitution. It states: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

Why Family Council Opposes the ERA: Since the introduction of the ERA over 30 years ago, numerous state and federal laws have been passed to prevent discrimination against women. In the meantime, courts have interpreted some state ERAs in ways that supporters of these measures never imagined. While Family Council supports equal rights, we are concerned about the unintended consequences of the Federal Equal Rights Amendment. Here is what can happen if it becomes part of the U.S. Constitution:

1. It can be used by activist judges to strike down all state marriage amendments and statutory bans, including Arkansas' constitutional amendment. In 2005, a state court in Maryland used their state ERA to strike down the state ban on same-sex marriage. (*Deane v Conaway*, Circuit Court for Baltimore City, Case No. 24-G-04-005390.) The Maryland Court of Appeals then reversed the trial court and upheld Maryland's same-sex marriage ban. However, the very fact that Maryland's ERA put its same-sex marriage ban in jeopardy raises extreme concern.
2. ERA could make taxpayer-funding of abortions a constitutional right. Since only women undergo abortions, the denial of taxpayer funding for them can be construed as sex discrimination. The New Mexico Supreme Court ruled that the state's ERA required New Mexico taxpayers to pay for abortions under the Medicaid program. *New Mexico Right to Choose/NARAL v Johnson*, 975 P.2d 841 (1998)
3. It can be used to require the military to force women to serve in combat and to be drafted into the military.
4. It can be used to remove all legal differences between men and women, thus affecting everything from room assignments in hospitals, to housing in prisons, to colleges with all male or all female dormitories.
5. It can be used to impact insurance rates that distinguish between men and women.
6. It can be used to attack single-sex organizations like the Boy Scouts, Girl Scouts, fraternities, sororities and single-sex schools.

Supporting Arguments/Facts: Laws are already in place to protect women's rights: the 14th Amendment to the U.S. Constitution guarantees equal protection for everyone under the law. This amendment has successfully been used in cases of discrimination to protect the rights of women and will continue to do so. The ERA is not needed to do this. "Equal Pay" for men and women has been the law of the land for 30 years. And with President Obama's 2009 signing of the Lilly Ledbetter Fair Pay Act, the ERA appears even more unnecessary.

Even though the time limit for passing the ERA "expired" in 1982, supporters believe if they can get 3 more states to ratify, it will become the 28th Amendment to the U.S. Constitution. It took over 200 years for the 27th Amendment to be ratified by 38 states.

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