

FAMILY ISSUE FACT SHEET

NO. 2019-01 (UPDATED JANUARY 30, 2019)

SCR 1006/SCR 1009 RATIFICATION; EQUAL RIGHTS AMENDMENT

EXECUTIVE SUMMARY

The Equal Rights Amendment (ERA) is an amendment to the United States Constitution proposed in the 1970's. The amendment reads:

Section 1: Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Section 2: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3: This amendment shall take effect two years after the date of ratification.

The plain reading of the ERA clearly envisions a country where sex is interchangeable, with no laws making distinctions based on sex. Ratification of the amendment does far more harm than good and brings with it a host of dangerous consequences. In addition, the ERA amendment is unnecessary because the Equal Protection Clause of the Fourteenth Amendment already protects against sexual discrimination.

BACKGROUND

Congress passed the Equal Rights Amendment in 1972 and was ratified by 35 states, three states short of the 38 states required for ratification by the Congress-imposed extended deadline of 1982.

As the negative consequences became clear, five states repealed their ratification. Now, long after the legal deadlines have passed, a new movement is pushing for ratification, claiming that there is legal precedent to ratify the amendment beyond the deadline.

Illinois ratified the amendment in 2018, making it the 37th state to do so. Arizona and Virginia are two of the targeted states to become the 38th state needed for ratification.

Twenty states have adopted state ERAs, some using them to strike down restrictions on abortion, including Connecticut and New Mexico. Planned Parenthood filed a lawsuit on January 16, 2019 alleging the Pennsylvania state ERA prohibits the state from restricting state funding of elective abortions.

Abortion activists view the ERA as a means to enshrine abortion rights in the U.S. Constitution, arguing any restriction on abortion is a form of illegal sex discrimination. Hence, abortion would be no different than a medically necessary procedure sought by men.

Further, every law that in some way distinguishes men and women would be in jeopardy of being found unconstitutional.

Finally, the ERA is unnecessary because the Fourteenth Amendment already requires equal protection under the law for men and women, thereby prohibiting unlawful discrimination based on sex.

TOP TEN REASONS TO OPPOSE THE ERA:

1. ***Transfers more power to the Federal Government*** - The ERA would give extensive new powers to the federal government that currently belong to the states. Section II of the ERA states that “The Congress shall have the power to enforce by appropriate legislation the provisions of this article.”
2. ***There already exists equal rights*** - Both women and men already have a full claim to equal rights under the Fifth and Fourteenth Amendments.
3. ***There already exists laws that prohibit sex discrimination*** - There are numerous laws in virtually all areas of American life (e.g. employment, education, credit eligibility, housing, public accommodations, etc.) that prohibit sex discrimination.
4. ***It has everything to do with abortion!*** - The ERA could enshrine in our Constitution a right to taxpayer-funded abortions because under the ERA there would be no difference between abortions and medically necessary procedures sought by men. This would force the state to pay for abortions under Medicaid.
5. ***Threat to Church tax-exempt status*** – Churches throughout the country will almost certainly be faced with a dilemma: Change your doctrines, policies, and practices regarding male-only clergy, or risk losing your tax-exempt status.
6. ***Would empower courts to define “sex”*** - Courts would be empowered to define “sex” and “equality of rights,” which could grant special legal rights to people on the basis of “sexual orientation” and “gender identity,” which would threaten religious liberty and conscience protections.
7. ***Jeopardizes privacy and safety*** - Traditional male and female bathrooms, locker rooms, hospital rooms, nursing homes, etc. would be nullified because under the ERA women and men must be treated as indistinguishable. This would place our young children at risk and seriously jeopardize privacy.
8. ***It would supersede Title IX*** – The ERA would permit males and females to compete for inclusion on the same sports teams, as evidenced by Pennsylvania’s Supreme Court

which invalidated sex segregated sports policies, including contact sports, citing the state's ERA.

9. ***Auto and life insurance for women would increase*** - Regardless of the statistical evidence showing that women live longer than men or women have better driving records, women would likely have to pay the same rates as men.
10. ***Integrated prison system*** - Male and female prisons will become integrated according to Supreme Court Justice Ruth Bader Ginsberg, and result in harsher discipline for females because they would be required to be treated in the same way as men.

CONCLUSION

The Arizona Legislature should not ratify the Equal Rights Amendment. The Equal Protection Clause of the Fourteenth Amendment already protects against sexual discrimination. The ERA could enshrine the right to abortion in the Constitution and will bring with it a host of dangerous consequences that come with a genderless society.