



Illinois: Because the ERA Harms Women

The Equal Rights Amendment (ERA – SJRCA75) is a poorly worded amendment to the U.S. Constitution that would restrict all laws and practices that make any distinctions based on gender. Such an extreme restriction would wipe out beneficial programs for women and prohibit necessary distinctions even when they logically make sense. Women and men are biologically different, and we must retain the ability to legally provide for these differences.

The ERA harms women and their families:

Under the extreme restrictions required by the ERA, logical recognition of the needs of women due to their differences would not be allowed. The ERA would eliminate the following:

- Work place laws that provide special accommodations for pregnant women
- State labor laws and guidelines which benefit women who do heavy, manual work
- Government programs that support women as mothers such as the Women Infants and Children program (WIC)
- Social Security benefits for stay-at-home mothers based on their spouse's income.
- Exemption of women from the military draft and front-line combat. Currently women who feel they are physically able can choose to enlist in the military. The ERA, however, would require that all women be drafted and placed on front-line combat in equal ratios to men.
- Laws and presumptions that support women in the areas of alimony, child support, and requirements of husbands to pay for their dependent wives' medical bills. The ERA will also wipe out state laws that exempt a wife from having to pay her husband's debts even if he deserts her with children to support.
- Gender designations for bathrooms, locker rooms, jails and hospital rooms
- All other laws that provide preferential treatment for women

In the 18 states that passed state Equal Rights Amendments, we have not seen any benefit for women. Instead, court cases prosecuted under the state ERAs have shown that women were harmed:

- In Maryland, the court held that under the state ERA, a husband could no longer be required to support his dependent wife. *Coleman v. Maryland*, 37 Md. App. 322, 377 A.2d (1977)
- Under Pennsylvania's state ERA, a father was exempted from providing primary support for his minor children, AND a husband's legal responsibility for his wife's hospital and medical bills was nullified. (*Conway v. Dana*, 456 Pa. 536, 318 A.2d 324 (1974)/ *Albert Einstein Medical Center v. Nathans*, 5 D&C 3d 619 (1978).
- Also under Pennsylvania's ERA, gender-based automobile insurance rates were disapproved by the state insurance commissioner due to a claim of sex discrimination. Now women will have to pay the same rates as men even if they statistically have better driving records (*Hartford Accident & Indemnity Co. v. Insurance Commissioner*, 482 A.2d 542 [Pa. 1984] and 543-44).
- In Massachusetts, the state ERA was used to overturn the practice of using stricter penal discipline with male inmates who are much more violent in jail than female inmates. As a result, female inmates will have to be subjected to equally harsh discipline (*DuPont v. Wyzanski*, 2004 Mass. Super. Ct. 2004).

These examples show that even when it logically makes sense to allow for a gender distinction, this extreme ERA will not allow for that distinction.

Numerous laws already provide for the equal protection of women's rights

The ERA will not give women any more rights than they currently have. Women already have claim to equal rights through the 14th Amendment (section 1) as well as numerous other laws in virtually all areas of American life – employment (including equal pay), education, credit eligibility, housing, public accommodations, etc. In an analysis of

the impact of the ERA written in the 1970s, Justice Ruth Bader Ginsberg was unable to find any changes required in employment laws for compliance with an ERA.

The ERA will not erase the wage gap between men and women

Women are already guaranteed equal pay through the Equal Pay Act of 1963. The currently quoted wage gap between men and women is a misunderstood statistic in which the average wages of all full-time working men and women are compared in one lump sum of men to women across all occupations and education levels. This doesn't allow for an equal pay comparison. When we compare the wages of men and women within the same career, in similar positions, at the same age, the wage gap narrows to 98 cents for women compared to a dollar for men. Women are not being paid less for doing the same job. Rather, the average wage gap is occurring for several reasons: (1) Women tend to choose positions and career fields that allow for time-flexibility due to their family needs. These positions pay less than rigid, time-demanding positions; (2) Women tend to take more time away from their careers to raise their children which creates interrupted career paths when they return; and (3) Women still tend to major more in liberal arts and people oriented careers than in the higher paying math and engineering fields – in spite of programs designed to attract more women to math and engineering. Thus the average wage pay gap is based on the personal choices women make and the circumstances they face. The ERA would not resolve these issues. In fact, it would eliminate the programs designed to support women with their child-rearing and family/career balancing needs.

Loss of social security benefits for stay-at-home wives and mothers

Whether the social security administration calls it a benefit for 'wives,' or 'spouses,' Supreme Court Justice Ruth Bader Ginsberg said that it will still be overturned by the ERA because it violates the equality principle by encouraging women to be dependent on their husbands. This is a choice husbands and wives should be able to make within their family without any intrusion by the government or extreme feminists with a "Big Sister" mentality.

The history of the ERA shows the extreme nature of its application and harm towards women.

Efforts to soften the extreme nature of the ERA via amendments were rejected by Congress when the ERA was first passed out of Congress. Courts will look to this legislative history for legislative intent as they interpret the ERA. A sample amendment that was rejected will show all that will not be protected under the ERA: *"The provisions of this article shall not impair the validity, however, of any laws of the United States or any State which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes rape, seduction, or other sexual offenses"* (Cong. Rec., pp. S9538–S9540).

The ERA would also transfer large amounts of legislative power from the states to Congress.

Section 2 of the ERA requires that Congress be given the power to enact the provisions of the ERA. As a result, states would lose their legislative abilities in regards to family law, some criminal laws, public and private schools, prison regulations, insurance rates, etc. Such a transfer would create an imbalance of power between the states and the federal government and place sensitive issues that affect women under the rule of a national government that is far less responsive to individuals than the state legislatures.

When the ERA failed to receive enough states' ratifications by 1979, it wasn't because we didn't believe in equal rights for women. The ERA failed because it was poorly worded, and wise legislators realized that this poorly worded amendment would harm women, their children and our society. Those who believe women need an equal rights amendment should write a better amendment that won't harm women.

Please support the well-being of women and our society by voting AGAINST the ERA (SJCA-75).