



FEMINIST MAJORITY FOUNDATION

CHOICES CAMPUS LEADERSHIP PROGRAM

WORLD'S LARGEST PRO-CHOICE STUDENT NETWORK

RATIFYING THE EQUAL RIGHTS AMENDMENT

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THE EQUAL RIGHTS AMENDMENT

The Equal Rights Amendment (ERA) would put women in the United States Constitution, enshrining women's equality and creating a national legal standard for the elimination of discrimination against women in all areas of life.

But the ERA is not just symbolic. Laws prohibiting discrimination against women are subject to the whims of Congress. They can be changed, gutted, or even eliminated. The ERA would ensure that women were constitutionally protected from discrimination, and would give a constitutional basis not only to protect the gains we have won, but also for proactive legislation that would secure women's equality going forward.

BRIEF HISTORY OF THE ERA

The ERA, authored by prominent suffragist and National Woman's Party leader Alice Paul, was first introduced in Congress in 1923, and then again in every Congressional session until it passed in 1972. Like every proposed constitutional amendment, the ERA was then sent to the states for ratification. Congress, however, imposed a seven-year deadline on the ratification process.

38 states must ratify an amendment before it can become part of the constitution. 35 states ratified the amendment by January 1976. As the seven-year deadline approached, women's rights activists demanded more time to win ratification in the states. Thousands demonstrated in Washington in 1978, and Congress granted an extension until June 30, 1982. Ultimately, the ERA was ratified by 35 states, meaning that women's equality is yet to be made an explicit constitutional guarantee. States failing to ratify are: Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Utah, and Virginia.

CURRENT STATUS OF THE ERA

The ERA has been reintroduced in Congress in every session since 1982. Subsequent introductions have included no time



limit on the ratification process. Most recently, in the 113th Congress, Representative Carolyn Maloney (D-NY) and Senator Robert Menendez (D-NJ) introduced the ERA in the House and Senate respectively. In addition, both the House and Senate have introduced resolutions that, if passed, would obviate the need for Congress to pass the ERA again. This strategy would count the 35 states that have already ratified the ERA and would only require three more states to ratify. This is called the "three-state strategy."

TEXT OF THE ERA

In the current Congress, the wording of the ERA differs in the House and Senate versions. The Senate version contains the original language of the ERA that Congress passed in 1972 and that was ratified by 35 states.

The Senate version (S.J. Res 10) 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 article shall take effect 2 years after the date of ratification.

The House version adds language to Section 1 that, if passed and ratified, would be the first time women would be explicitly named and given rights in the U.S. Constitution.



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Not even the Nineteenth Amendment – prohibiting the denial of the right to vote based on sex – writes “women” into the Constitution.

The House version (H.J. Res. 56) reads:

Section 1. Women shall have equal rights in the United States and every place subject to its jurisdiction. 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. Congress and the several States 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.

THREE-STATE STRATEGY

Article V of the Constitution gives Congress the power to propose amendments to the Constitution. Two-thirds of both the House and Senate must vote for the amendment. Then, the proposed amendment must be ratified by three-fourths of the states, through the state legislatures, before it can be made part of the Constitution. Nothing in the Constitution places a time limit on the ratification process.

The original time limit placed on ERA ratification was imposed by Congress, not by the Constitution. To avoid having to pass the ERA again and then re-start the ratification process, members of the House and Senate have introduced “three-state strategy” resolutions.

S.J. Res. 15, introduced by Senators Benjamin Cardin (D-MD) and Mark Kirk (R-IL) has 31 co-sponsors, and H.J. Res. 43, introduced by Representative Robert Andrews (D-NJ) has 88 co-sponsors:

S.J. Res. 15 and J.J. Res 43. read:

Notwithstanding any time limit contained in House Joint Resolution 208, 92d Congress, as agreed to in the Senate on March 22, 1972, the article of amendment proposed to the States in that joint resolution shall be valid to all intents and purposes as part of the Constitution whenever ratified by the legislatures of three-fourths of the several States.

If the resolution passes, the original time limit placed on ratification would be removed. Since 35 states have already ratified the ERA, only 3 additional states would have to ratify for the amendment to become part of the Constitution.