

THE EQUAL RIGHTS AMENDMENT

Simple Justice . . . Long Overdue

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 **Equal Rights Amendment** (ERA), written by suffragist leader Alice Paul, was first proposed and introduced in Congress in 1923. It was passed by Congress in 1972 and sent to the states with a seven-year deadline for ratification. Although Congress extended the deadline to June 30, 1982, the ERA received only 35 of the necessary 38 state ratifications. The amendment has been reintroduced in every session of Congress since that time. The ERA resolutions in the 112th Congress (2011-2012) are *S.J. Res. 21* (lead sponsor Sen. Robert Menendez, D-NJ) and *H.J. Res. 69* (lead sponsors Rep. Carolyn Maloney, D-NY, and Rep. Judy Biggert, R-IL). To put the ERA into the Constitution, the bills would require passage by a two-thirds vote in each house of Congress and ratification by 38 states.

Why We Need the ERA

- Without the ERA, the Constitution does not explicitly guarantee that the rights it protects are held equally by all citizens without regard to sex. The first – and still the only – right specifically affirmed as equal for women and men is the right to vote.
- The equal protection clause of the Constitution's 14th Amendment was first applied to sex discrimination only in 1971, and it has never been interpreted to grant equal rights on the basis of sex in the uniform and inclusive way that the ERA would.
- The ERA would provide a clearer judicial standard for deciding cases of sex discrimination, since federal and state courts (some working with state ERAs, some without) still reflect confusion and inconsistency in dealing with such claims. It would also clarify sex discrimination jurisprudence and 40 years of precedent for Supreme Court Justice Antonin Scalia, who claimed in an interview reported in the January 2011 *California Lawyer* that the Constitution, specifically the 14th Amendment, does not protect against sex discrimination.
- The ERA would provide a strong legal defense against a rollback of the significant advances in women's rights made in the past 50 years. Without it, Congress can weaken or replace existing laws on women's rights, and judicial precedents on issues of gender equality can be eroded or ignored by reactionary courts responding to a conservative political agenda.
- Without the ERA, women regularly and men occasionally have to fight long, expensive, and difficult legal battles in an effort to prove that their rights are equal to those of the other sex.
- The ERA would improve the United States' human rights standing in the world community. The governing documents of many other countries affirm legal gender equality, however imperfect the global implementation of that ideal may be.

***National Council of Women's Organizations, 714 G Street, SE, Suite 200, Washington, DC 20003
202-293-4505, (fax) 202-293-4507, ncwo@ncwo-online.org, www.womensorganizations.org
ERA Task Force (Roberta W. Francis, Chair): era@equalrightsamendment.org, www.equalrightsamendment.org***