

Opposition arguments against ratifying the Equal Rights Amendment (ERA) and the corresponding facts:



"I don't want my daughter to be drafted!"

Regardless of ratification of the ERA, a reinstated draft likely will include everyone, not just men. Conscripting only men into our military force, currently comprised of both male and female volunteers, would be unreasonable and antithetical to defense needs and morale. Already, in October 2017, the Pentagon recommended that women should register with the selective service.

"This opens the door for abortion rights."

Roe v. Wade was decided on the Right to Privacy, not on a non-existent Federal ERA. Illinois has had an Equal Rights clause ('little ERA') in its state constitution since 1970, yet HB40 was a major battle last year. Why? Because the Illinois Supreme Court refused to use the little ERA to expand abortion rights in New Hope Clinic (2013). Illinois was not alone. Ten more states with a "little ERA" prohibit public funding of abortions.

"The ratification deadline has passed."

The US Constitution does not give Congress authority to limit States' power to ratify amendments or set a schedule. Nevada ratified the Equal Rights Amendment in 2017, exercising a state's right to ratify under Article V of the Constitution. The General Assembly should enact laws reflecting the will of Illinois citizens, not predict what Congress or the Supreme Court might do.

"We don't need it anymore."

Every day we read another testimonial of inequities experienced by women. Without gender equality in the Constitution the Supreme Court may continue to strike legislation protecting women.

"We will all be using the same bathrooms!"

Existing privacy rights will continue to protect appropriate separation of facilities for performing intimate bodily functions.

"Widows will lose Social Security!"

Social security has been gender-inclusive for surviving spouses since a legal challenge in 1975. There has never been a "homemakers" benefit.

"Women contractors will lose enhanced status for contract bids."

The enhanced status program for female contractors will continue unabated with a ratified federal Equal Rights Amendment, just like those same programs are allowed to give enhanced status to minority-owned businesses even though racial equality is protected under the Fourteenth Amendment. Illinois' little ERA has had no effect on this issue.

"Over 800 laws would change according to Justice Ginsburg."

In the early 1970s, then Professor Ginsburg led a government study of the US Code listed all the instances that might need to change when the ERA was ratified. Revisions over the last 40 years make this stale claim willfully misleading.

The Law

The courts currently treat gender discrimination more leniently ("intermediate scrutiny") than discrimination on the basis of race, national origin, or religion ("strict scrutiny").

Without the ERA, legislation protecting women could be invalidated as happened in 2000, when the Supreme Court struck down the civil remedy provision of the Violence Against Women Act.

Politics

Ratification of the Equal Rights Amendment is good politics for Illinois, especially now when national attention is focused on women's issues.

The bills ratifying the Equal Rights Amendment are already garnering bipartisan support in the IL General Assembly.

Expanding this cooperation to encompass a majority of legislators from both parties will give the IL General Assembly national accolades not only for its leadership on a longstanding civil rights issue but also for its bipartisanship during these contentious times.

"Certainly, the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn't." - Justice Scalia, 2010, UC Hastings College of Law