



QUICK FACTS

Equal Rights Amendment

December 2018

The American Association of University Women is committed to the passage and ratification of the Equal Rights Amendment.

The majority of Americans mistakenly believe that women and men have equal rights under the Constitution.¹ The 14th Amendment of the Constitution explicitly states that men are guaranteed equality under law but is poignantly silent about women. The advancement of women's equality continues incrementally through patchwork legislation and court decisions, but women's equality under law remains illusory because these laws can be changed or even revoked at the whim of legislators and judges. The Equal Rights Amendment (ERA) provides the constitutional guarantee that all men and women are truly equal under the law and that these rights cannot easily be abridged.

History

The ERA was first introduced in Congress in 1923 and was reintroduced every year until its passage in 1972. The proposed constitutional amendment required three-fourths of all states to ratify the amendment before fully implementing the ERA. State legislatures were given until 1979 to ratify the amendment, and Congress later extended the ratification deadline to 1982. By the time the final deadline passed in 1982, 35 states approved the ERA, three states short of ratification.²

What It Says: The Equal Rights Amendment

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 in Congress

Since failing to ratify the ERA in 1982, subsequent sessions of Congress have taken action to propose legislative solutions to include women in the Constitution. Members of Congress have proposed a bipartisan resolution calling for an amendment to the Constitution of the United States declaring that women will have equal rights when compared to their male counterparts. Typically referred to as the "start-over amendment," this resolution prohibits denying or abridging equality of rights on account of sex.

A similar yet separate strategy, often referred to as the "three-state strategy," would repeal or eliminate the deadlines set in 1972 and 1978, preserving prior state ratifications and reopening the ERA for state ratification.

Update in the States

Legal scholars suggest that if three remaining states ratify the amendment, the ERA stands a good chance of acceptance.³ In 2017, Nevada became the 36th state to ratify the ERA. One year later, Illinois followed suit and became the 37th state, just one short of the three-fourths requirement. As justification for this theory, scholars point to the 1992 ratification of the 27th Amendment, which was originally passed by Congress in 1789 — more than 200 years earlier.

Why We Need the ERA

The lack of constitutional equality reaches every aspect of women's lives. The ERA would clarify, once and for all, that sex discrimination in employment, reproductive rights, insurance, Social Security, education, and more is a violation of our constitutional rights as Americans. The ERA provides the opportunity to seek legal recourse when an individual faces sex discrimination.

Constitutional Amendment versus Sex Discrimination Law

The progress our country has made on gender equality through the courts and patchwork legislation can be reversed. Sex discrimination does not have the same legal protection as other constitutional classes, such as race, religion, or nationality.⁴ This constitutional double standard means that hard-won legislative and court victories against sex discrimination are not permanent—and can be rolled back or not enforced. The ERA would place the burden of proof on those who discriminate instead of those fighting for equality.

Additional Resources

The Simple Truth about the Gender Pay Gap

American Association of University Women

www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/

“Is the Equal Rights Amendment Relevant in the 21st Century?”

National Organization for Women

now.org/resource/is-the-equal-rights-amendment-relevant-in-the-21st-century/

“What Is the ERA?”

ERA Coalition

www.eracoalition.org/about/php

*You provide the voice; we'll provide the megaphone. Sign up to take action for women and girls today:
bit.ly/AAUWActionNetwork.*

¹ ERA Coalition. (2016). *Why We Need an Equal Rights Amendment*. eracoalition.org/files/whyweneedtheERA.pdf

² ERA Task Force of the National Council of Women's Organizations. (2013). “The ERA in the States.” equalrightsamendment.org/states.htm

³ ERA Task Force of the National Council of Women's Organizations. (2013). “The History behind the Equal Rights Amendment.” equalrightsamendment.org/history.htm

⁴ See *Craig v. Boren*, 429 U.S. 190 (1976). The U.S. Supreme Court created the court doctrine of “intermediate” scrutiny, an elevated level of judicial scrutiny that does not invoke the strict-scrutiny standard of constitutionally protected classes (such as race or ethnicity) however is higher than the rational-basis standard used for all classifications of persons not enumerated in the Constitution.