

ERA Equal Rights Amendment



Frequently Asked Questions

The proposed Equal Rights Amendment (ERA) to the United States Constitution is both politically and culturally controversial. Since it was first introduced in 1923, the ERA has been an issue with both fervent supporters and ardent opposition. Interpretations of the Amendment's intent and potential impact have been varied and sometimes contradictory.

1. What is the complete text of the Equal Rights Amendment?

The original ERA, first proposed in 1923, was known as the "Lucretia Mott Amendment". It says:



"Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction. Congress shall have the power to enforce the article by appropriate legislation."

In 1943 the original version was rewritten to the following wording (now called the Alice Paul Amendment):

Section 1: Equality of rights of the law shall 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.

2. Why is an Equal Rights Amendment to the Constitution necessary?

The Equal Rights Amendment would provide a fundamental legal remedy against sex discrimination for both women and men. It would guarantee that the rights affirmed by the Constitution are held equally by all citizens without regard to their sex.

To those who would try to write, enforce, or adjudicate laws inequitably, the ERA would send a strong message – the Constitution has no tolerance for sex discrimination under the law.



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3. What is the political history of the ERA?

- The Equal Rights Amendment was written in 1923 by Alice Paul, a leader in the women's suffrage movement and women's rights activist with three law degrees. It was introduced in 1923 and reintroduced every session of Congress for half a century.
- On March 22, 1972, the 1943 version of the ERA finally passed the Senate and the House of Representatives by the required 2/3 majority and was sent to the states for ratification. An original seven-year deadline was later extended by Congress to June 30, 1982. When this deadline expired, only 35 of the required 38 states had ratified the amendment.
- In accordance with the traditional ratification process outlined in Article V of the Constitution, the Equal Rights Amendments had been introduced in every session of Congress since 1982. The only procedural action on it, a house floor vote in 1983, failed by six votes.
- Beginning with the 113th Congress (2014-2015) the text of the ERA bill in the House of Representatives has included wording not present in the *1972 bill* passed by Congress. Section 1 specifically names women in the Constitution for the first time and in addition of "and the several States" in Section 2 affirms that the constitutional prohibition of sex discrimination is a function of both the federal and state government.
- In the 116th Congress (2019-2020) the traditional ERA ratification bill is H.J. Res. 35 (lead sponsors, Rep Carolyn Maloney (D-NY), and Tom Reed (R-NY):
 - 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.
- Again, in the 116th Congress, bills to override any deadline and affirm ratification when 38 states have ratified are S.J. Res. 6 (Ben Cardin D-MD, Lisa Murkowski R-AK) and H.J. Res. 38 (Rep Jackie Speier D-CA). These bills are related to a non-traditional route to the ERA ratification. A novel and unprecedented "three state strategy," which has been advanced since 1994. In that year, Rep Robert Andrews (D-NJ) introduced a bill stating that when an additional three states ratify the ERA, the House shall take any necessary action to verify that ratification has been achieved.
- In 2011 Andrews joined Rep Tammy Baldwin (D-WI) in support of her bill to remove the deadline and make it part of the Constitution when three more states ratify. The Senate version to that legislation was introduced by Se. Ben Cardin (D-MD)

- On March 22, 2017, after more than two decades of advocacy based on the three-state strategy, Nevada became the 36th state to ratify the ERA, 45 years to the day after Congress passed the amendment and sent it to the states for ratification. In May 2018, Illinois became the 37 state to ratify.

4. Which 15 states did not ratify the ERA by June 30, 1982?

- Alabama
- Arizona
- Arkansas
- Florida
- Georgia
- Illinois
- Louisiana
- Mississippi
- Missouri
- Nevada
- North Carolina
- Oklahoma
- South Carolina
- Utah
- Virginia

5. Why are these states being asked to ratify the ERA even though the 1982 deadline has passed?

After the ratification of the 27th Amendment (preventing Congress from raising their salaries between elections) in 1992, political activity developed around the “three-state strategy. As shown in the Madison Amendment, passed 203 years after its passage by Congress, Congress has the power to maintain legal viability of the ERA by extending the original timeline.

The precedent established with the 14th and 15th Amendment demonstrates states cannot retract their ratification and ratifications that occur after 1982 may be accepted as valid.

[The Equal Rights Amendment: Why the ERA Remains Legally Viable and Properly Before the States.](#)

6. Do some state constitutions have ERAs or other guarantees of equal rights based on sex?

Twenty-five states provide either inclusive or partial guarantees of equal rights based on sex. Only the federal government can insure equal rights for all Americans. Ironically, four states with state level equal rights amendments or guarantees (Florida, Louisiana, Utah, Virginia) have not ratified the ERA.

7. Since the 14th Amendment guarantees all citizens equal protection, why do we still need the ERA?

The 14th Amendment was ratified in 1868, after the Civil War, to deal with race discrimination, referring to the electorate by adding the word male to the Constitution for the first time. Women had to fight for another 70 years to gain the right to vote.

Since 1971, the Supreme Court and other lower courts have applied “skeptical scrutiny” in sex discrimination cases and have interpreted the 14th Amendment only in terms of race, religion or country of origin.

8. Aren't there adequate legal protections against sex discrimination?

Without the ERA, many of the statues are subject to the whims of the current leaders. Congress could amend or repeal current laws.

The Trump administration announced it is overturning Obama-Biden guidance that required colleges to provide equal name, image and likeness (NIL) payment opportunities to male and female student-athletes under Title IX regulations, marking a significant shift in collegiate sports policy that could have far-reaching implications for gender equity in athletics.

With the ratification of the ERA, the United States would show the world we truly are a country that protects all its citizens.

[Trump Scraps Biden-Obama Sports Pay Guidelines](#)

9. How is the ERA related to reproductive rights?



The claim that the ERA would require government to allow “abortion on demand” is untrue. And a clear misrepresentation of state laws and court decisions. Recent Supreme Court decisions on reproductive rights (e.g. *Burwell v Hobby Lobby stores, Inc.*, 2014) have raised questions about the vulnerability of women’s choices regarding contraception as well as abortion.

The existence of the ERA in the Constitution would almost certainly influence such deliberations in the future.

10. What level of public support exists for a constitutional guarantee for equal rights for men and women?

According to a 2016 poll by the national ERA Coalition, 94% of Americans support an amendment to the Constitution to guarantee equal rights for men and women. This support reached 99% among 18- to 24-year-olds. However, 80% of those polled thought the Constitution already guarantees equal rights to males and females.