



Equal Rights Amendment Talking Points

Reproductive Rights (from the Alice Paul Institute)

The repeated claim of opponents that the ERA would have the direct effect of requiring government to allow “abortion on demand” misrepresents existing federal and state laws and court decisions, which have been based primarily on due process and the right of privacy.

In federal courts, including the Supreme Court, a number of restrictive laws dealing with contraception and abortion have been invalidated since the mid-20th century based on the constitutional principles of right of privacy and due process, not equal rights. *Roe v. Wade* (1973) falls squarely in the middle of a line of court decisions expanding the interpretation of the constitutional right of privacy of individuals to be protected against excessive governmental reach into certain personal areas in their lives.

State equal rights amendments have been cited in several state court decisions (e.g., in Connecticut and New Mexico) dealing with a very specific issue – whether a state that provides funding to low- income Medicaid-eligible women for childbirth expenses should also be required to fund medically necessary abortions for women in that program. The courts ruled that the state must fund both of those pregnancy-related procedures if it funds either one, in order to prevent the government from using fiscal pressure to exert a chilling influence on a woman’s exercise of her right to make medical decisions about her pregnancy. The New Jersey Supreme Court issued a similar decision based on the right of privacy and equal protection, not on the state constitution’s equal rights guarantee.

The presence or absence of a state ERA or equal protection guarantee does not necessarily correlate with a state’s legal climate for reproductive rights. Despite Pennsylvania’s state ERA, the state Supreme Court decided that restrictions on Medicaid funding of abortions were constitutional. The U.S. Supreme Court in separate litigation (*Planned Parenthood v. Casey*, 1992) upheld certain restrictions on abortion in Pennsylvania under the federal due process clause.

State court decisions on abortion are not conclusive evidence of how federal courts would decide such cases. While some state courts have required Medicaid funding of medically necessary abortions, the U.S. Supreme Court has upheld the constitutionality of the federal “Hyde Amendment,” which prohibits federal government funding of nearly all Medicaid abortions, even medically necessary ones.

Recent Supreme Court decisions on reproductive rights (e.g., *Burwell v. Hobby Lobby Stores, Inc.*, 2014) have raised concerns about the legal vulnerability of women's right of privacy to have access to contraception as well as abortion.

ERA Coalition response to "Isn't this all about changing the law on abortion?"

No. In fact, when Nevada and Illinois recently ratified the ERA, the votes in favor of ratification included a number of state legislators who are firmly pro-life. As these legislators explained, a vote for the ERA is a vote for *equality*. The Supreme Court has already held that the Constitution protects the right to abortion, even without the ERA. The ERA would enhance equality across a variety of areas, including by protecting women from discrimination based on pregnancy, childbirth, and motherhood. *Prepared by Linda Coberly of Winston & Strawn LLP for the ERA Coalition Legal Task Force.*

For more information, please visit <http://www.eracoalition.org/> or <https://www.winston.com/en/resource/equal-rights-amendment.html>.

Equal Pay & Poverty in North Carolina

The Economic Status of Women in North Carolina

Women in North Carolina have made considerable advances in recent years but still face inequities that often prevent them from reaching their full potential. Since the 2004 *Status of Women in the States* report was published, the gender wage gap in North Carolina has narrowed, a higher percentage of women have bachelor's degrees, but a larger share of women live in poverty. North Carolina has risen from the worst third in the nation to the middle third for both women's Employment & Earnings and Poverty & Opportunity.

Key Findings

- North Carolina's grade for women's Employment & Earnings, **C**, has improved since the 2004 *Status of Women in the States* report (Table 1). Its grade for women's Poverty & Opportunity, **D+**, has remained unchanged since 2004.
- Women in North Carolina aged 16 and older who work full-time, year-round have median annual earnings of \$36,400, which is 80.9 cents on the dollar compared with men who work full-time, year-round (Table 1). Hispanic women earn just 49 cents for every dollar earned by White men (Table 2).
- If employed women in North Carolina were paid the same as comparable men, their poverty rate would be reduced by more than half and poverty among employed single mothers would drop by nearly half (Figure 1).³
- 57.3 percent of women in North Carolina aged 16 and older are in the labor force, compared with 67.2 percent of men (Table 1). Among women, Black women have the highest labor force participation rate, at 62.5 percent (Table 2).

- A growing share of employed women in North Carolina are in managerial or professional occupations. About 42 percent of women hold these positions, which tend to require a four-year degree and often have higher wages and employment benefits.
- In North Carolina, 35.6 percent of businesses in 2012 were owned by women, up from 28.2 percent in 2007.
- Approximately 31 percent of women aged 25 and older in North Carolina have a bachelor's degree or higher, an increase of about 9 percentage points since 2000 (Table 1).
- 86.5 percent of North Carolina's women aged 18 to 64 have health insurance coverage, which is below the national average for women of 89.4 percent (Table 1).
- North Carolina ranks 39th nationally for the share of women in poverty; 17.3 percent of women in the state aged 18 and older are in poverty, compared with 14.6 percent of North Carolina's men (Table 1).

UNequal Pay in North Carolina

<p>If current trends continue, women in North Carolina will not see equal pay until the year 2060.</p>	<p>The difference between women's and men's median annual earnings, \$8,600, would pay for 3.6 years of community college tuition in North Carolina.</p>
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Poverty in North Carolina

If women made the same salary as men in North Carolina (Equal Pay for Equal Work), the poverty rate would decrease by nearly 50% as shown in the 2018 Economic Status of Women in North Carolina Report <https://statusofwomendata.org/wp-content/themes/witsfull/factsheets/economics/factsheet-north-carolina.pdf>

Harm to Women

Opponents of the ERA have said that it would prohibit *any* distinctions based on sex, so it would harm women rather than helping them. Is that true?

No. The government would still be able to draw distinctions based on sex if they pass "strict scrutiny." So, if a state has a compelling interest in maintaining a specific sex-based distinction—for example, limiting a battered women's shelter to women, to protect them from continued trauma—the ERA would not affect it. Indeed, many states have had ERAs in their own constitutions for many years, and those ERAs have not led to the elimination of all sex distinctions—for example, in single-sex prisons, locker rooms, and bathrooms.

In any event, most of the laws that people think of as benefitting women—like social security regulations, WIC benefits, laws requiring child or spousal support, and so on—are actually already sex-neutral.

Military by ERA Coalition and Alice Paul Institute

Wouldn't the ERA require a major change in military service and the draft?

No. There is currently nothing that prevents the draft from being extended to women. In fact, the Senate passed a bill in 2016 that would have required women to register. The bill had the support of the late Senator John McCain, who noted that women already serve with great distinction in our armed forces. And a federal court in Texas recently held that a male-only draft would be unconstitutional even under the 14th Amendment.

Current Status of Women in the Military by GAO

The share of female troops in the U.S. military increased only slightly over 14 years, consistently representing less than a fifth of service members, and women remain more likely to leave the military than male troops, a government watchdog report shows.

Women cited an array of challenges in deciding to end military careers at higher rates than men, including sexual assault and difficulty reconciling pregnancies and parenthood with career advancement, according to the study by the nonpartisan Government Accountability Office.

The GAO's analysis stems from concerns raised by lawmakers in recent years that disproportionate female attrition may harm Defense Department readiness and take an economic toll on the military.

The report comes as the Pentagon seeks to modernize its force and reorient toward China after two decades of counterinsurgent operations. In recent years, the military has sought to prepare for high-tech conflicts by buying sophisticated weaponry and growing its digital capability as the Trump administration has promoted increased defense spending.

But the GAO found that the military has failed over multiple administrations to adequately plan for and track the integration of women across the force, including into ground combat roles. More recently, the department — whose senior leaders remain predominantly male — has not established clear plans and metrics to ensure it can create a more diverse force, the watchdog found.

“Without DOD guidance and service plans with goals, performance measures, and timeframes to monitor female recruitment and retention efforts, DOD may continue to miss opportunities to recruit and retain a valuable segment for its active-duty force,” the report stated.