



The Phyllis Schlafly Report

How ERA Would Change Federal Laws

Proponents of the Equal Rights Amendment often argue, "We need ERA because 800 Federal laws discriminate on account of sex." This report examines those 800 laws and how ERA would change them. It reveals how our nation would be dramatically changed if ERA ever became part of the U.S. Constitution.

The source of the "800 laws" argument is a 230-page book entitled *Sex Bias in the U.S. Code: A Report of the U.S. Commission on Civil Rights* published in April 1977. The U.S. Commission on Civil Rights is a Federal agency established by Congress to investigate and study discrimination and make reports to Congress.

Sex Bias in the U.S. Code was actually written by Ruth Bader Ginsburg and Brenda Feigen-Fasteau (who were paid with tax funds under Contract No. CR3AK010). Ginsburg is one of the two most widely quoted pro-ERA lawyers. Her name appears as one of the feminist lawyers in most of the gender cases that have reached the Supreme Court in the last decade. At the time *Sex Bias* was written, she was a professor of law at Columbia Law School and used the assistance of 15 Columbia Law School students. In 1980, President Jimmy Carter appointed Ginsburg to the second highest court in our country, the U.S. Court of Appeals for the District of Columbia. Feigen-Fasteau was a director of the Women's Rights Project for the American Civil Liberties Union, and has appeared in TV network and other debates on ERA with Phyllis Schlafly.

Thus, *Sex Bias in the U.S. Code* is a good index to what ERA would do. It was written by the two top ERA activist female lawyers, it was published by the U.S. Commission on Civil Rights, and it was funded by the Federal Government during the Carter Administration.

Sex Bias in the U.S. Code was written and published in order to identify all the Federal laws that discriminate against women, and to recommend the specific changes demanded by the women's lib movement in order to eliminate "sex bias" and to conform to "the equality principle" of ERA. (p. 10) *Sex Bias in the U.S. Code* makes it clear that, if ERA were ever added to the Constitution, ERA would accomplish all these changes in one stroke. *Sex Bias in the U.S. Code* also makes it clear that ERA activists are trying to accomplish the same results by changing Federal statutes. The ERAers are constantly pressuring the President and Congress to eliminate all the laws that discriminate on account of sex.

Sex Bias in the U.S. Code is, therefore, a handbook to prove what the ERA will do and what the ERAers want. The book proves that the legal consequences of ERA and the social and political goals of the ERAers are radical, irrational, and

unacceptable to Americans. *Sex Bias* convicts the ERAers out of their own mouths. In the view of the authors, all the proposed changes listed in *Sex Bias* are needed in order to achieve "the equality principle" of ERA.

An old adage warns, "Would that mine enemy had written a book." Well, the top ERA lawyers wrote one, and they've provided a powerful weapon against ERA. Here is a summary of the changes demanded by the book *Sex Bias in the U.S. Code*. All quotations below are directly from the book and are identified by page numbers.

ERA Changes in Employment

The box below shows what changes ERA will bring in employment.



That's right, NOTHING! *Sex Bias in the U.S. Code* proves that ERA will do absolutely nothing in employment! *Sex Bias in the U.S. Code* explodes all the phony arguments made by the ERAers about the job discrimination and "59¢."

Sex Bias tries to claim that two Federal laws discriminate on sex in employment — and both claims are completely false. *Sex Bias* falsely claims that there is a "sex-age differential in 41 U.S.C. #35 setting a minimum age of 16 for boys and 18 for girls employed by public contractors." (p. 217) The fact is that the age was equalized for boys and girls in 1968. *Sex Bias* falsely claims that women are prohibited from working in coal mines. (p. 217) The fact is that more than 3,000 women are coal miners today.

ERA Changes in the Military

1. Women must be drafted when men are drafted.

"Supporters of the equal rights principle firmly reject draft or combat exemption for women, as Congress did when it refused to qualify the Equal Rights Amendment by incorporating any military service exemption. The equal rights principle implies that women must be subject to the draft if men are, that military assignments must be made on the basis of individual capacity rather than sex." (p. 218)

"Equal rights and responsibilities for men and women implies that women must be subject to draft registration if men are. Congressional debate on the Equal Rights Amendment points clearly to an understanding of this effect on the Amendment." (p. 202)

2. Women must be assigned to military combat duty.

“Until the combat exclusion for women is eliminated, women who choose to pursue a career in the military will continue to be held back by restrictions unrelated to their individual abilities. Implementation of the equal rights principle requires a unitary system of appointment, assignment, promotion, discharge, and retirement, a system that cannot be founded on a combat exclusion for women.” (p. 26)

3. Affirmative action must be applied to equalize the number of men and women in the armed services.

“The need for affirmative action and for transition measures is particularly strong in the uniformed services.” (p. 218)

4. We must recruit an equal number of women into the military academies.

“Because entrance to the academies enables a person to obtain the education necessary for officer status and advancement opportunities, the equal rights principle mandates equal access to the academies.” (p. 27)

ERA Changes in the Family

1. The traditional family concept of husband as breadwinner and wife as homemaker must be eliminated.

“Congress and the President should direct their attention to the concept that pervades the Code: that the adult world is (and should be) divided into two classes — independent men, whose primary responsibility is to win bread for a family and dependent women, whose primary responsibility is to care for children and household. This concept must be eliminated from the code if it is to reflect the equality principle.” (p. 206)

“It is a prime recommendation of this report that all legislation based on the breadwinning, husband — dependent, homemaker wife pattern be recast using precise functional description in lieu of gross gender classification.” (p. 212)

“A scheme built upon the breadwinning husband [and] dependent homemaking wife concept inevitably treats the woman’s efforts or aspirations in the economic sector as less important than the man’s.” (p. 209)

2. The Federal Government must provide comprehensive government child-care.

“The increasingly common two-earner family pattern should impel development of a comprehensive program of government-supported child care.” (p. 214)

3. The right to determine the family residence must be taken away from the husband.

“Title 43 provisions on homestead rights of married couples are premised on the assumption that a husband is authorized to determine the family’s residence. This ‘husband’s prerogative’ is obsolete.” (p. 214)

4. Homestead law must give twice as much benefit to a married couple who live separate and apart from each other as to a husband and wife who live together.

“Married couples who choose to live together would be able to enter upon only one tract at a time.” (p. 175)

“Couples willing to live apart could make entry on two tracts.” (p. 176)

5. No-fault divorce must be adopted nationally.

“Consideration should be given to revision of 38 U.S.C. #101 (3) to reflect the trend toward no-fault divorce.” (p. 159)

“Retention of a fault concept in provisions referring to separation ... is questionable in light of the trend away from fault determinations in the dissolution of marriages.” (pp. 214-215)

6. The government must provide “paternity” leave for childrearing as well as maternity leave.

“A provision of Title 20 (#904) authorizes ‘maternity’ leave. To the extent that leave is authorized for childrearing as distinguished from childbearing, fathers as well as mothers should be eligible.” (p. 213)

“In government schools overseas, leave may be taken by a teacher for ... ‘maternity’ purposes. ... Both male and female teachers may wish to take ‘parental’ leave to care for their infant children, and there is no justification for limiting such leave to female teachers.” (pp. 106-107)

7. The role of motherhood must be restricted to the very few months in which a woman is pregnant and nursing her baby. Mothers are not entitled to any special benefits or protections for motherhood responsibilities beyond that.

“The references are to ‘maternal’ health or welfare and ‘mothers.’ Those terms would be appropriately descriptive only if the programs involved were confined to care for pregnant women and lactating mothers.” (p. 212)

8. The law must not assume that a woman takes her husband’s name upon remarriage.

“38 U.S.C. #3020 prohibits delivery of benefit checks to ‘widows’ [of veterans] whom the postal employee believes to have remarried, ‘unless the mail is addressed to such widow in the name she has acquired by her remarriage.’ As written, the provision implies that women automatically acquire a new name upon remarriage, an implication inconsistent with current law and the equality principle.” (p. 156)

ERA Changes in Moral Standards

1. The age of consent for sexual acts must be reduced to 12 years old.

“Eliminate the phrase ‘carnal knowledge of any female, not his wife who has not attained the age of 16 years’ and substitute a Federal, sex-neutral definition of the offense ...: A person is guilty of an offense if he engages in a sexual act with another person, not his spouse, and ... the other person is, in fact, less than 12 years old.” (p. 102)

2. Bigamists must have special privileges that other felons don’t have.

“This section restricts certain rights, including the right to vote or hold office, of bigamists, persons ‘cohabiting with more than one woman,’ and women cohabiting with a bigamist. Apart from the male/female differentials, the provision is of questionable constitutionality since it appears to encroach impermissibly upon private relationships.” (pp. 195-196)

3. Prostitution must be legalized; it is not sufficient to change the law to sex-neutral language.

“Prostitution proscriptions are subject to several constitutional

and policy objections. Prostitution, as a consensual act between adults, is arguably within the zone of privacy protected by recent constitutional decisions.” (p. 97)

“Retaining prostitution business as a crime in a criminal code is open to debate. Reliable studies indicate that prostitution is not a major factor in the spread of venereal disease, and that prostitution plays a small and declining role in organized crime operations.” (p. 99)

“Current provisions dealing with statutory rape, rape, and prostitution are discriminatory on their face. ... There is a growing national movement recommending unqualified decriminalization [of prostitution and the prostitution business] as sound policy, implementing equal rights and individual privacy principles.” (pp. 215-216)

4. The Mann Act must be repealed; women should not be protected from “bad” men.

“The Mann Act ... prohibits the transportation of women and girls for prostitution, debauchery, or any other immoral purpose. This language, which is not confined to illegal acts but encompasses ‘immoral’ conduct as well, appears too broad and vague to the point where fair notice of the activity proscribed is hardly supplied. ... The act poses the invasion of privacy issue in an acute form. The Mann Act also is offensive because of the image of women it perpetuates. ... It was meant to protect from ‘the villainous interstate and international traffic in women and girls,’ ‘those women and girls who, if given a fair chance, would, in all human probability, have been good wives and mothers and useful citizens. ... As the courts consistently proclaimed, the act was meant to protect weak women from bad men.” (pp. 98-9)

5. Rape laws must be rewritten in sex-neutral language.

“A sex-neutral definition of rape ... should be added to Title 18 or Title 10 and referred to throughout for the definition of the offense.” (p. 103)

“Current provisions dealing with statutory rape, rape, and prostitution are discriminatory on their face.” (p. 215)

6. Prisons and reformatories must be sex-integrated.

“If the grand design of such institutions is to prepare inmates for return to the community as persons equipped to benefit from and contribute to civil society, then perpetuation of single-sex institutions should be rejected. ... 18 U.S.C. #4082, ordering the Attorney General to commit convicted offenders to ‘available suitable, and appropriate’ institutions, is not sex discriminatory on its face. It should not be applied, as it now is, to permit consideration of a person’s gender as a factor making a particular institution appropriate or suitable for that person.” (p. 101)

“Change the name and eliminate the single sex character of the National Training School for Boys. ... Change the name and eliminate the single sex character of the Federal Reformatory for Women as part of the larger reorganization of the Federal correctional system necessitated by the equal rights principle.” (p. 103)

7. In the merchant marine, provisions for passenger accommodations must be sex-neutralized, and women may not have more bathrooms than men.

“46 U.S.C. #152 establishes different regulations for male and female occupancy of double berths, confines male passengers

without wives to the ‘forepart’ of the vessel, and segregates unmarried females in a separate and closed compartment. 46 U.S.C. #153 requires provision of a bathroom for every 100 male passengers for their exclusive use and one for every 50 female passengers for the exclusive use of females and young children.” (p. 190)

“46 U.S.C. #152 might be changed to allow double occupancy by two ‘consenting adults.’ ... Requirements for separate bathroom facilities stipulated in Section 153 should be retained but equalized so that the ratio of persons to facility is not sex-determined.” (p. 192)

ERA Changes in Education

1. Single-sex schools and colleges, and single-sex school and college activities must be sex-integrated.

“The equal rights principle looks toward a world in which men and women function as full and equal partners, with artificial barriers removed and opportunity unaffected by a person’s gender. Preparation for such a world requires elimination of sex separation in all public institutions where education and training occur.” (p. 101)

2. All-boys’ and all-girls’ organizations must be sex-integrated because separate-but-equal organizations perpetuate stereotyped sex roles.

“Societies established by Congress to aid and educate young people on their way to adulthood should be geared toward a world in which equal opportunity for men and women is a fundamental principle. In some cases, separate clubs under one umbrella unit might be a suitable solution, at least for a transition period. In other cases, the educational purpose would be served best by immediately extending membership to both sexes in a single organization.” (pp. 219-220)

3. Fraternities and sororities must be sex-integrated.

“Replace college fraternity and sorority chapters with ‘social societies.’ ” (p. 169)

4. The Boy Scouts, the Girl Scouts, and other congressionally-chartered youth organizations, must change their names and their purposes and become sex-integrated.

“Six organizations, which restrict membership to one sex, furnish educational, financial, social and other assistance to their young members. These include the Boy Scouts (36 U.S.C. ##21-29), the Girl Scouts (36 U.S.C. ##31-34, 36, 39), Future Farmers of America ..., Boys’ Clubs of America ..., Big Brothers of America ..., and the Naval Sea Cadets Corp. ... The Boy Scouts and Girl Scouts, while ostensibly providing ‘separate but equal’ benefits to both sexes, perpetuate stereotyped sex roles to the extent that they carry out congressionally-mandated purposes. 36 U.S.C. #23 defines the purpose of the Boy Scouts as the promotion of ‘...the ability of boys to do things for themselves and others, to train them in scoutcraft, and to teach them patriotism, courage, self-reliance, and kindred virtues. ...’ The purpose of the Girl Scouts, on the other hand, is ‘...to promote the qualities of truth, loyalty, helpfulness, friendliness, courtesy, purity, kindness, obedience, cheerfulness, thriftiness, and kindred virtues among girls, as a preparation for their responsibilities in the home and for service to the community....’ (36 U.S.C. #33.)” (pp. 145-146)

“Organizations that bestow material benefits on their members should consider a name change to reflect extension of membership to both sexes ... [and] should be revised to con-

form to these changes. Congress should refuse to create such sex-segregated organizations in the future. ... Review of the purposes and activities of all these clubs should be undertaken to determine whether they perpetuate sex-role stereotypes.” (pp. 147-148)

5. The 4-H Boys and Girls Clubs must be sex-integrated into 4-H Youth Clubs.

“Change in the proper name ‘4-H Boys and Girls Clubs’ should reflect consolidation of the clubs to eliminate sex segregation, e.g., ‘4-H-Youth Clubs.’” (p. 138)

6. Men and women should be required to salute the flag in the same way.

“Differences [between men and women] in the authorized method of saluting the flag should be eliminated in 36 U.S.C. #177.” (p. 148)

ERA Changes in Social Security

The Social Security section in *Sex Bias in the U.S. Code* is hopelessly out of date. It has been obsoleted by Supreme Court decisions and statutory changes by Congress. There is *no* sex discrimination in Social Security today. The working woman receives the same benefit as the working man. The dependent-husband receives the same benefit as the dependent-wife. ERA should have no effect on Social Security.

ERA Changes in Language

1. The overwhelming majority of the 800 Federal laws that allegedly “discriminate” on account of sex merely involve the use of so-called “sexist” words which the ERAers are trying to censor out of the English language. About 750 out of the 800 changes in Federal laws demanded by the ERAers are ridiculous semantic changes. Here is a partial list of the specific words which *Sex Bias in the U.S. Code* wants censored out of the Federal laws. “The following is a list of specific recommended word changes:” (pp. 15-16, 52-53)

Words To Be Removed

manmade
man, woman
mankind
manpower
husband, wife
mother, father
sister, brother
entryman
serviceman
midshipman
longshoremen
chairman
postmaster
plainclothesman
watchman
lineman
newsboy
businessman
salesman
duties of seamanship
“to man” (a vessel)
she, her (reference to ship)
he or she
her or him
hers or his

Words To Be Substituted

artificial
person, human
humanity
human resources
spouse
parent
sibling
enterer
servicemember
midshipperson
stevedores
chairperson, the chair
postoffice director
plainclothesperson
watchperson
line installer, line maintainer
newscarrier
businessperson
salesperson
nautical or seafaring duties
to staff
it, its
he/she
her/him
hers/his

2. In another piece of nonsense, *Sex Bias* demands that Congress create a female anti-litter symbol to match “Johnny Horizon.”

“A further unwarranted male reference ... regulates use of the ‘Johnny Horizon’ anti-litter symbol. ... This sex stereotype of the outdoorsperson and protector of the environment should be supplemented with a female figure promoting the same values. The two figures should be depicted as persons of equal strength of character, displaying equal familiarity and concern with the terrain of our country.” (p. 100)

3. On the other hand, *Sex Bias* shows its hypocrisy by demanding that the “Women’s Bureau” in the U.S. Department of Labor be continued. Although the authors admit that this is “inappropriate,” (it is obviously sex discriminatory), they simply demand it anyway.

“The Women’s Bureau is ... a necessary and proper office for service during a transition period until the equal rights principle is realized.” (p. 221)

What *Sex Bias* Proves

A fundamental error in *Sex Bias* is its statement that “The Constitution, which provides the framework for the American legal system, was drafted using the generic term ‘man.’” (p. 2) The authors apparently didn’t bother to read the U.S. Constitution. If they had, they would have found that the word “man” does not appear in it (except in a no-longer-operative section of the 14th Amendment, which is not in effect now and was not in effect when the Constitution was “drafted”). The U.S. Constitution is the most beautiful sex-neutral document. It exclusively uses sex-neutral words such as person, citizen, resident, inhabitant, President, Vice-President, Senator, Representative, elector, Ambassador, and minister, so that women enjoy every constitutional right that men enjoy — and always have.

Out of the “800 laws” that allegedly discriminate on account of sex, a half dozen changes might be worth making. *Sex Bias*’ most constructive proposal is to extend Secret Service protection to the widower of a future female President just like the protection now given to the widows of our male Presidents. (p. 99) But for that, we hardly need a constitutional amendment or a radical revision of Federal laws!

Sex Bias in the U.S. Code is devastating to the ERA cause. It proves that the “equality principle” of the Equal Rights Amendment will bring about more extremist results than anyone has yet imagined. *Sex Bias* proves that ERA is extremist in its anti-family objectives and extremist in its trivial nonsense. *Sex Bias* proves that ERA is extremist in its assault on our moral standards and extremist in its attack on the combat-effectiveness of our armed services.

Above all, *Sex Bias* proves how the leading lawyers of the ERA movement intend to use the “equality principle” of ERA to bring about vast changes in our legal, political, social, and educational structures — and that they are working hard with our tax dollars to do it *either* by constitutional mandate *or* by legislative changes *or* by judicial activism.

Finally, *Sex Bias in the U.S. Code* proves conclusively that (a) there are NO laws that discriminate *against* women, and that (b) all claims that ERA will help women in regard to jobs or employment are false and fraudulent.

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Box 618, Alton, Illinois 62002
ISSN0556-0152

Published monthly by The Eagle Trust Fund, Box 618, Alton, Illinois 62002.

Second Class Postage Paid at Alton, Illinois.

Subscription Price: \$10 per year. Extra copies available: 25 cents each; 6 copies \$1; 50 copies \$5; 100 copies \$8.