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**THE
MOST
FREQUENTLY
ASKED
QUESTIONS
about
THE
NEW
JERSEY
EQUAL
RIGHTS
AMENDMENT**

ERA

STATE OF NEW JERSEY

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DEPARTMENT OF COMMUNITY AFFAIRS

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DIVISION ON WOMEN

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What is ERA?

ERA is an Equal Rights Amendment to the New Jersey State Constitution which would extend legal rights under State laws equally to men and women by adding the following paragraph to Article I:

“Equality of rights under the law shall not be denied or abridged on account of sex.”

Why not wait for ratification of the Equal Rights Amendment to the Constitution of the United States?

Several reasons. First, 38 states must ratify an amendment to the Federal Constitution. So far, only 34 states have done so. Further, following ratification, the Federal Constitutional Amendment will not take effect for two years. New Jersey ERA would be effective immediately after passage of the referendum. Most important, while sex discrimination has been eliminated from several State laws, the New Jersey Constitution does not specify equal rights for both sexes.

Why not change laws instead of amending the Constitution?

A law enacted or amended by one Legislature can be readily rescinded or amended by a succeeding Legislature. Further, changing laws is time consuming and burdens the work-load of the Legislature.

What will ERA do?

ERA will make laws illegal which provide privileged rights to only one sex, because by their nature, they discriminate against the other sex. Therefore, men also stand to benefit under this provision. ERA also would add muscle to existing laws. Courts could no longer refuse to hear sex discrimination cases. Most important, the aggrieved individual would no longer need to prove the unreasonableness of discrimination on the basis of sex. Instead, the State would need to prove that it is reasonable to treat men and women differently because of physical characteristics unique to all or most members of one sex and not the other.

How will ERA affect present New Jersey laws?

Assembly Concurrent Resolution No. 67 (ERA amendment) provides that "the Legislature shall by law provide for the enforcement of the provisions of this paragraph." In all likelihood, laws will be reviewed and either (1) coverage extended equally to both sexes, or (2) the law repealed, or (3) the law will remain unchanged if there is a compelling reason why men and women should be treated differently, for example because of physical characteristics unique to all or most members of one sex and not the other.

Will ERA destroy the family or family life?

The ERA affects government action only. It will not prevent partners in an on-going marriage from establishing a family, developing and/or agreeing on personal or financial relationships, raising their children in a manner consistent with their ethical, religious and moral standards.

Fifteen states have equal rights provisions in their state Constitutions, two of them since the 19th Century (Wyoming-1890 and Utah-1896). Based on the experience of these states, there is no evidence to indicate a breakdown in family structure or relationship.

Will the New Jersey ERA force wives and mothers to leave their home to take outside jobs?

No. The ERA will not force women to work outside their homes. There is no law requiring either men or women to work outside their homes. However, it will make it legally possible for men and women to enjoy the life style of their choice.

Will ERA require a woman to contribute 50% to the family's support?

No. The amendment would not require both a husband and wife to contribute identical amounts of money to a marriage. Where both parties are employed, the court may regard them to be co-equally responsible for the support of each other and their children. Women who do not work outside the home make their contribution in the

form of their services as wife, mother and homemaker.

Will ERA deprive a married woman of her husband's obligation to support her?

No. Where the husband is the primary wage earner and the wife runs the home, the wage earner would have an obligation to support the spouse who stays at home.

If you choose to be a homemaker, how will ERA affect you?

ERA will not change your relationship with your husband or your role in the family. However, if unfortunate happenings should change your circumstances (i.e., divorce, death, permanent injury, or chronic illness, etc.) ERA will guarantee your rights to equal opportunities to enable you to keep your family together. A recent study indicates that 1 out of 5 families is headed by a woman, and 57% of the households with incomes below the poverty level are headed by women.

Will alimony still be awarded under ERA?

Yes. In a divorce action, alimony is awarded at the discretion of the court. The court may award alimony to a wife or husband depending on actual need, ability to pay, and the duration of the marriage, etc.

If ERA is passed, who will get custody of the children in a divorce action? Who will be responsible for child support?

Custody of the children is awarded by the court based on "the best interest of the child." Child support may be awarded to the parent given custody of the child based on actual need and the ability to pay.

Will passage of the New Jersey ERA make a woman liable for her husband's debts?

Neither husbands nor wives are now liable for each others, personal and business debts. A married woman's separate property is not liable for the debts of her husband nor is a husband liable for his wife's debts contracted before the

marriage or contracted in her own name after marriage, unless the debts are for the necessities of life or the purchase of goods and services for the household. Creditors will continue to have the right to present claims against the estate of the deceased spouse.

How will New Jersey ERA affect property rights?

New Jersey is a "separate" property state. Under present law, husbands and wives may own property separately, or they may hold property jointly as joint tenants, tenants in common, or as tenants by their entirety. They are not now required or entitled to share in each other's property. ERA will not change these rights.

Will women be drafted in the armed forces if the New Jersey ERA is passed?

No. New Jersey maintains a *voluntary* army and air force National Guard which is open to both men and women volunteers. ERA will assure equal treatment in promotional opportunities, assignments, and benefits.

How will ERA affect abortion laws?

It will not. Under abortion laws, women are not covered because they are women, rather because they bear children. Since men cannot conceive and bear children, ERA will not affect legislation relating to abortions.

Will women lose social security benefits if the New Jersey ERA is adopted?

The ERA, to be voted upon on November 4, 1975, is an amendment to the New Jersey Constitution. It affects only New Jersey laws. The Social Security Act, which is a Federal law, would not be affected.

Will men benefit from the New Jersey ERA?

Yes. The ERA guarantees rights under the law to men as well as women. Therefore, where there are laws which provide privileged rights to women only, such laws would have to be extended to include men or repealed.

Doesn't the New Jersey Law Against Discrimination already provide equal rights for New Jersey's women?

The New Jersey Law Against Discrimination as originally passed in 1945, did not include sex as a basis for discrimination. Not until 1970 was the law amended to eliminate discrimination based on sex in housing, public accommodations, and employment. Only this year, 1975, was the law amended to eliminate discrimination based on sex and marital status in the extension of credit and in applications for credit. With the adoption of the ERA, even the New Jersey Law Against Discrimination would have to be reviewed to determine if there are any areas of the law which do not yet provide for non-discrimination on the basis of sex.

ERA



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