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ERA-74 Staff

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EFFECT OF THE ERA ON FLORIDA LAWS

The proposed 27th amendment to the United States Constitution, the equal rights amendment, has been before the American people and their representatives since 1923. 38 states must ratify the amendment. 33 states have already done so, 5 more are needed. During this last 50 years the status of women in many instances has not improved and they have not been given the equal treatment theoretically available to all citizens.

The purpose of this amendment is not to take women out of the home or downgrade the roles of mother and housewife. Rather by guaranteeing the legal rights of women it will uphold each woman's right to choose her place in society.

There has been a great deal of misinformation about the amendment. In order to make an intelligent decision about ratification we must consider unemotional facts. In the words of the United States Senate report "The amendment will apply only to governmental action; it will not affect private action or the purely social relationships between men and women." The fear that invasion of private behavior will be the inevitable aftermath of the equal rights amendment rests upon two unwarranted assumptions (1) That mere ratification will work radical changes in private lives and (2) That the courts of this nation will sanction effort to extend the principle of equality into areas clearly not supported by either the language or the legislative history of the amendment.

Also of major importance in any consideration of the amendment is its Section 3, providing an effective date two years after ratification by the requisite number of states. That provision guarantees an extended period during which conforming adjustments can be made to existing law. It must be remembered that the state legislatures have the freedom to choose what they consider the most appropriate response from the many and varied alternatives.

The staff of ERA-74 a coalition of some twenty statewide organizations in Florida working together for the ratification of the amendment in Florida has compiled the following report on the effect of the ERA on Florida laws. Because of the 1968 Constitution and because of revisions of certain laws since then ratification of the ERA will have less effect in Florida than in most other states.

FAMILY LAW: Florida's "no-fault" divorce law (Fla. Stat 61.071 et seq and 61.13) whereby alimony is decided on need and ability to pay and child custody is decided by what is best for the child is in compliance with the ERA since there is no discrimination by sex. This practice has been widespread in recent years anyway and the concept of "living in luxury on alimony" is a myth when past statistics are reviewed. Husbands will still support their wives as always and women will still be free to choose homemaking as a fulltime career. However if they opt for a career outside the home the ERA will guarantee equality of opportunity in employment.

CRIMINAL LAW: Some rape statutes have already been amended to read person rather than female (Sec. 794.01 Fla. Stat.) changes have been made to extend much needed protection to young boys. Charges the ERA will legalize rape are ridiculous--it is still a criminal assault and punishable, and such laws much protect both men and women.

Florida Statutes (Sec. 796.03) already define prostitution as sexual intercourse for hire regardless of the sex of the individual. Statutes affecting one sex or the other because of unique physical characteristics, such as abortion, maternity benefits, etc, would not be affected. Unlike some states Florida law does not require longer sentences be imposed on women than men for the same crime.

LABOR LAWS: Florida law makes no distinction between men and women in legislation about minimum wages, working hours and other conditions of employment. There are a few "protective" laws dealing with age discrimination for certain types of jobs (Sect. 450.041, 450.041, and 450.071) and one statute dealing with females and gambling establishments (Sec. 449.10) but the effect of the amendment will be very limited in this area.

PROPERTY LAWS: Most inequities in this area have been theoretically corrected by the 1968 Constitution and/or subsequent legislation (Chap 708) Men and women have theoretical equality with respect to control and distribution of property both real and personal. The dower rights inequity was eliminated in 1973 when the word widow was changed to read surviving spouse (Chap 73-107 Sec 731.34, 35, and 36 Sec 733.09, 10, 11, 13, 14.)

COMMERCIAL TRANSCATIONS: Sex inequities in this area were eliminated when Florida adopted the Uniform Commercial Code. Senate Bill 393, 1973 eliminated discrimination in 3 specific areas obtaining credit, making loans, and equal pay for equal work. This is a fine concept, but as adopted, is too limited, applies only to private corporations, and can be amended or repealed. The ERA would extend this concept to governmental agencies where probably more sex discrimination in employment practices exist than in any other area.

RIGHTS OF PRIVACY There is no legal basis for the fear of having to use common rest-rooms. The constitutional right of privacy was established in a 1965 U.S. Supreme Court Case, Grizwold vs. Connecticut. It would no longer be legal to refuse to hire women because only one bathroom is available a second would have to be built or other arrangements made so each sex has privacy.

In conclusion, the ERA will cause a few relatively uncomplicated legal changes fewer than in most states. The state of Washington has already ratified the ERA adopted a state ERA and brought their laws into conformity with the 27th amendment. Florida because of recent progress in equalizing its legal system should face a similar uncomplicated task. Ratification of the amendment would mean one more step toward full legal equality of all its citizens, regardless of sex.