



The Urgency in Protecting Reproductive Health & Abortion Care

*Presented by Rhea Simon, Planned Parenthood Advocates of Virginia &
Elizabeth Brubaker, Generation Ratify Virginia*

Who are We?



Elizabeth Brubaker (she/her)

Generation Ratify Virginia - The Virginia chapter of the intersectional, youth-led movement to finalize the Equal Rights Amendment and promote gender justice



Rhea Simon (she/her)

Planned Parenthood Advocates of Virginia - our advocacy mission is to preserve and broaden access to reproductive health care through legislation, public education, electoral activity and litigation in Virginia.



Abortion and Reproductive Health Care is a Public Health Issue

- We need to **get the word out** about an upcoming constitutional amendments and build grassroots support for this essential protection that would be decided on by Constituents, not politicians.
- These amendments are about **protecting our freedom** and ensuring that politicians cannot take our commonwealth backwards by restricting or even banning essential reproductive health care in Virginia and other states.
- **This is about who is in charge of your personal healthcare decisions – you or the government**

Fighting Abortion Stigma

Center the Individual and THEIR decision

The decision about if and when to become a parent should be up to a patient and their provider—not politicians.

Every person's circumstance is different and every pregnancy is unique. We all deserve access to health care based on our own medical needs and provider's best judgment, without interference by politicians.

Correct Misinformation

"Abortion until birth"

Let's set the record straight: There is *no such thing* as an abortion up until birth.

The idea that this legislation will somehow allow a Virginian to have an abortion as they give birth is flat-out untrue — it's simply not how medical care works.

Being Inclusive

The unfortunate reality is that too many women, and transgender, nonbinary and gender-nonconforming people in the U.S. face barriers to safe, legal abortion.

Timeline of Abortion Practices in the US

1860 - 1880

First abortion restrictions are legalized, not for religious/moral issues but because physicians trying to control medicine.

1973

Roe v. Wade SCOTUS decision released. Justices find abortion is a “fundamental” right to a person’s “life and future.”

1920s-30s

Many cities has doctors specializing in abortions and would prefer the procedure despite bans. The procedure was more commonplace.

1992

Planned Parenthood v. Casey. The court upheld *Roe v. Wade*, but allowed states to pass more abortion restrictions as long as they did not pose an “undue burden. TRAP laws and the “rare narrative emerge.”

1940s-50s

The leniency faded with the end of WWII as gender roles were reinforced. Prosecution of doctors led to abortion practices to go underground

2021

After decades of more restrictions being passed and abortion stigma growing, *Dobbs v. Jackson* leading to many states outlawing the practice.

The ERA and Abortion Rights

The Equal Rights Amendment, despite being over 100 years old, provides an interesting and unique path forward in protecting abortion rights and reproductive healthcare in the United States

Equality of rights under the law shall not
be denied or abridged by the United
States or by any State on account of sex.

— Equal Rights Amendment

What is the Equal Rights Amendment?

- The Equal Rights Amendment (ERA), first proposed in 1923, is an amendment to the United States Constitution that guarantees equality of rights under the law for all persons regardless of sex.
 - Nothing in our Constitution expressly guarantees a right to sex/gender as a protected class or sexual freedom.
 - The first — and still the only — right that the U.S. Constitution specifically affirms equally for women and men is the right to vote.
 - Sex discrimination (especially on the federal level) is Largely still legal



If the ERA is ratified it would codify into law:

Equal protection from descrimination for **ALL people**, regardless of sex.

A clear federal judicial standard for deciding cases of sex discrimination.

Provide a strong legal defense against a rollback of women's rights.

**(including but not limited to:
Roe v. Wade & the Lilly Ledbetter Act)**

Improve the United States' standing in the world community. The governing documents of **many other countries already affirm legal gender equality.**



A Brief History of the ERA



1923

The ERA was written and introduced every year in Congress but made little progress until the 1970s

1972

It finally passes both chambers and is sent to the states for ratification with a seven-year deadline. The only Constitutional Amendment to ever have a deadline put on it.

1982

Only 35 states of the 38 had ratified the ERA, leading many to accept its defeat.

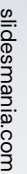
2020

The 38 states required to ratify the ERA do so with Virginia being 38. Since then even more have followed suit. The only problem? The unconstitutional deadline :(

2020 - 2023

Bills introduced into the house and senate to remove the unconstitutional deadline placed on the ERA.

Most current one: HJ Res 25



Where the ERA is now?

- Constitutional scholars are in agreement that the Equal Rights Amendment has met the necessary requirements for ratification and is now included in the Constitution.
- The Archivist of the United States has not yet taken the final ministerial step of publishing the ERA in the Federal Register with certification of its ratification as the 28th Amendment, pending resolution of political, legal, and judicial challenges to its unique ratification process.
- No legal barrier prevents Congress from eliminating the deadline altogether – and doing so retroactively

The ERA in New York

Coming to a Ballot Near you in November 2024

The New York legislature passed the Equal Rights Amendment (ERA) in its second consecutive session, officially bringing the amendment to New Yorkers for ratification on the 2024 November ballot.

An ERA 2.0 by clearly defining sex in the amendment itself - “sex, including sexual orientation, gender identity or expression, pregnancy, pregnancy outcomes, reproductive healthcare and autonomy.”

- Explicitly prevents state abortion bans

**THE NEW YORK
EQUAL RIGHTS
AMENDMENT**

Coming to the ballot in November 2024

The Importance of Constitutional Protection

- A Constitutional Amendment is the best way to create long term protections for abortion rights
- **Our rights should not be up for debate!** We can permanently guarantee the right to reproductive freedom by amending the Constitution.
- The 14th Amendment and its Equal Protection Clause has been invalidated as a Constitutional protection for Abortion

Restrictions on Abortion Violate the ERA Because They...

1

Single out abortions from other medical procedures that carry similar or greater risks for more burdensome treatment

- As those seeking abortions are womxn/marginalized gender identities, restrictions creates clear sex discrimination in the medical field which **should** not hold up to constitutional scrutiny

2

Perpetuate harmful and discriminatory gender stereotypes that limit equal participation in society

- Abortion restrictions and arguments discussed when debating this topic perpetuates the outdated idea of gendered citizenship
- “regarded as the center of home and family life, with attendant special responsibilities that precluded full and independent legal status under the Constitution. Those views are no longer consistent with our understanding of the family, the individual, or the Constitution.” - Ruth Bader Ginsburg

3

Creates gender inequity in the emotional, financial, and other costs in compelled pregnancy

- Research shows that mothers are much more likely to experience significant career interruptions in order to attend to their families' needs. The disproportionate burden placed on mothers to care for children is one of the principal causes of structural sex-based inequality in the wage labor market and other sectors.

4

Compound with other identities to create drastic disparities in healthcare, education, and financial access/opportunities

- Restrictive abortion access disproportionately impacts low-income, those of color, the LGBTQ community, immigrants, young people, and those living in rural areas' access to healthcare, education, and opportunity. These broad differences represented by statistics provide clear evidence of inequality.
- On a survey from May and June of 2021, one out of four women who became unemployed during the pandemic reported the job loss was due to a lack of childcare, twice the rate of men surveyed. Forced pregnancy and birth compounds these problems

Effectiveness of Using the ERA to Protect Abortion Rights

- Linking the Equal Rights Amendment to abortion rights protection is a new rallying cry by younger advocates in the gender justice movement
- Many constitutional law scholars largely agree about the ability of the ERA to protect abortion rights but this is a new legal tactic that is just now being tested.
- In the case, *Allegheny Reproductive Health Center v. Pennsylvania Department of Human Services*, the pending PA Supreme Court Decision will decide if Pennsylvania's ban on providing Medicare Funding for abortion violates the Commonwealth's Equal Rights Amendment adopted in 1971.
 - Of course, one decision will not determine the overall merit of the ERA as a constitutional protection for abortion



Keeping our eyes out for the decision!

What can you do for the ERA?

✦ **Tell your representatives to support the ERA**

Call or email your representatives to support the ERA NOW resolution which instructs the National Archivist to certify and publish the ERA. Fill out the form in the chat to do so!

https://secure.everyaction.com/LQD7TMD9I0OHUuWqG6t_4Q2

✦ **Vote for the ERA in New York and tell your neighbors and friends to do so**

✦ **Donate to Fuel our Movement**

<https://secure.actblue.com/donate/feminist-disruption>

What can you do for abortion rights?

Donate

<https://secure.actblue.com/donate/planned-parenthood-in-virginia-pac-1>

Volunteer

<https://linktr.ee/ppava>

<https://www.plannedparenthood.org/planned-parenthood-greater-new-york/get-involved>

Communicate

Questions?

We will have a 30 minute Q+A period. Feel free to raise your hand or drop a question in the chat

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