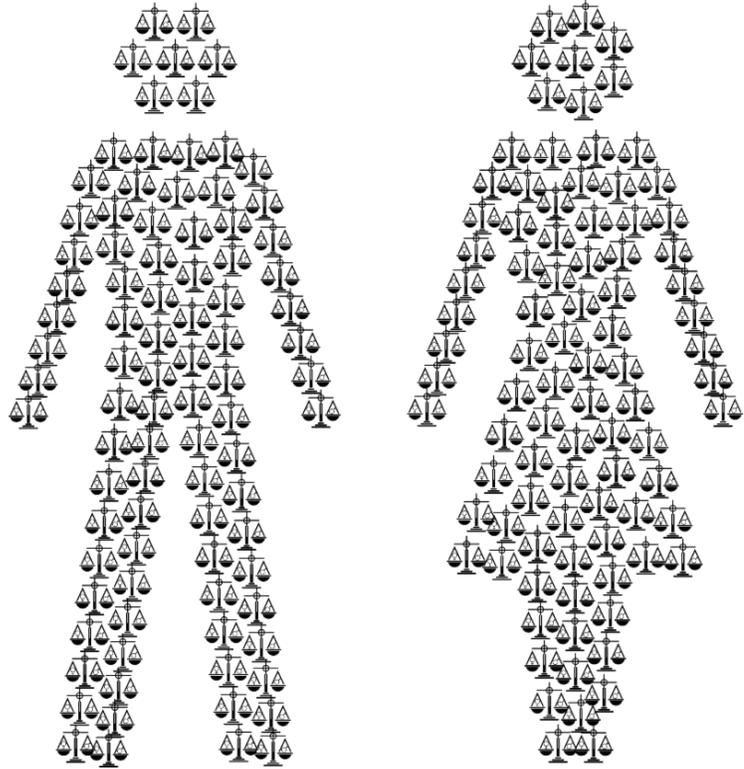


NEWS:

Delaware ERA Halfway to Ratification

JUNE 8, 2018 -- A proposed Equal Rights Amendment to the Delaware State Constitution has completed the first leg of its journey to becoming law.

[House Bill 399](#) seeks to add to the state constitution: "Equality of rights under the law shall not be denied or abridged on account of sex."



The wording is identical to the proposed federal Equal Rights Amendment (ERA) that Congress sent to the states for ratification in March, 1972. Delaware was one of the first states to approve the amendment, although it ultimately fell short of ratification.

The House approved the measure by a vote of 34-to-5 (with two absent) in late March, despite concerns from several members who said they feared the language could be misinterpreted as being applicable to cases involving gender identity or could inadvertently undermine programs specifically benefiting women.

Senate Republicans expressed similar reservations last month and in a vote just before the General Assembly's three-week budget recess, the measure failed to garner the super-majority needed for passage.

Reaching a compromise during the break, the Senate restored the measure on Wednesday and approved it after adding an amendment.

The addendum states the General Assembly's intentions when it considered the measure. Among the points made in the preamble is that the amendment would apply only to the State of Delaware and its political subdivisions, not private entities.

The new language also makes clear the while the amendment is intended to protect citizens' rights, "it does not require the state to fund the exercise of those rights."

It also contains a provision that the amendment is not meant to apply in circumstances when other compelling interests, such as privacy, lead state officials to support single-sex services or programming.

The Senate action sent the legislation back to the House, which approved it again, this time on a vote of 35 to 6.

Opponents noted the new amendment is not actually part of the law. In that sense, they say the revised legislation is identical to the original bill. "A statement of intent is not law," said State Rep. Tim Dukes, R-Laurel. "Judges do not have to consult or consider it. There is as much room now as there ever was for this amendment to be misused to advance progressive political initiatives."



State Rep. Tim Dukes

Critics of the amendment point to state supreme court rulings in Connecticut ([Doe v. Maher](#)) and New Mexico ([NARAL, et al v. Johnson](#)) as justification for their concerns. The high courts in both states cited equal rights amendments in their constitutions in making decisions that mandated state-funded abortions.

In Delaware, a proposed constitutional amendment must be approved by at least two-thirds of the members of each legislative chamber in two consecutive General Assemblies. It does not require the signature of the governor.

To be enacted, the Delaware ERA will need to be introduced in the 150th General Assembly and complete its second leg before the end of the session in 2020.