



House of Representatives
Judiciary Committee
Ranking Member Doug Collins

Understanding H.J. Res. 79:

House Republicans welcome a conversation about ways we can better protect women's rights. There is a right way to do that, but this is not it.

- In 1983, once the constitutionally valid deadline for ratification of the ERA had passed, the House appropriately began the ERA amendment process from scratch.
 - In the 1980s, Rep. Sensenbrenner offered an amendment to ensure the ERA wouldn't affect abortion one way or the other.
 - That amendment was voted down on a party line vote, and a vote to make the ERA abortion-neutral hasn't been allowed by Democratic leadership since.
 - If the ERA is ever to become law, it must be re-introduced and marked up so its meaning can be made clear.
- This new ERA failed to gain the constitutionally required votes of two-thirds of the House.
- Democrats should abandon the expired 1972 ERA, start the process anew, and give all states an opportunity to reconsider ratification of the ERA.
- **In fact, in Sept. 2019 Justice Ruth Bader Ginsburg agreed, stating, "I hope someday ... we'll be starting over again [on the ERA] collecting the necessary states to ratify it."**

H.J. Res. 79 ignores the will of the people and would eliminate numerous state and federal laws.

- If the ERA is ratified, restrictions on abortion would be deemed unconstitutional gender discrimination because the restrictions limit a medical procedure **only available to women**.
 - In fact, when New Mexico included the exact same ERA language in its state constitution, the New Mexico Supreme Court in 1998 held that its language required New Mexico to use state funds for abortions because since only women can get pregnant, any regulation that applies to pregnancy is sex-based discrimination.
- This is not about protecting women. It is about eliminating any law regulating abortion—including the federal Hyde Amendment, a ban on taxpayer funding of abortion that's been bipartisan federal policy for over 40 years.
- **NARAL has admitted that "the ERA would reinforce the constitutional right to abortion . . . [it] would require judges to strike down anti-abortion laws."**

Republicans want to responsibly legislate to protect women’s rights, but Democrats can only pass partisan messaging bills.

- During this session of Congress, Republicans:
 - Supported the president’s signing of legislation to guarantee paid family leave for federal employees.
 - Wanted to pass a clean extension of the Violence Against Women Act, but Democrats voted against that.
 - Sought to discharge from committee the Debbie Smith Act, to address the rape kit backlog. In response to Republican pressure, Democrats finally scheduled that bill for floor consideration.
- In the last session of Congress, the Republican majority:
 - Passed numerous bills to address sex trafficking and other forms of trafficking in persons.
 - Passed the Ashanti Alert Act, to establish a national communications network to support search efforts for missing adults.
 - Passed the POWER Act, to promote pro bono legal services to assist survivors of domestic violence and sexual assault.
 - Passed a new tax credit for companies that provide paid family leave in the Tax Cuts and Jobs Act.
 - Passed the Congressional Accountability Act, to strengthen the protections for House employees from sexual harassment.

Background on H.J. Res. 79:

- In 1983, the U.S. Supreme Court dismissed a lawsuit involving the ERA as moot, accepting the position of the U.S. Solicitor General that the ERA had “failed of adoption” since no additional states ratified the ERA during the time limit. As a result, Supreme Court precedent requires that any attempt to amend the Constitution with the ERA must begin anew, and Congress cannot simply continue the failed 1972 ERA attempt. H.J. Res. 79 ignores that reality.
- H.J. Res. 79 would ignore our founding fathers' wishes that any amendment to the Constitution require a two-thirds vote in each house of Congress and ratification individually from 38 states whose people support the amendment.
- Attempts to ratify the ERA failed in 1979 with only 35 states (of the 38 required) ratifying it before the deadline. Several states (Idaho, S.D., Neb., Ky., and Tenn.) have rescinded their ratifications.
- H.J. Res. 79 would unconstitutionally deny all Americans their right to participate in a contemporary debate on an ERA that failed to get the support of voters before its deadline expired. If supporters of the ERA thought they had voters’ support for their proposal, they’d reintroduce the ERA and let the voters decide.