

## SOME FACTS YOU SHOULD KNOW...

Throughout the mid-to-late 1900's, legislative efforts increased women's rights...but the gains were often hard won! Why is there such strong opposition to giving women the same rights as men?

- Did you know...The 19<sup>th</sup> Amendment which grants women the right to vote was slimly ratified? It came down to one single vote in the state of Tennessee.
- Did you know...The Civil Rights Act of 1964 which bans discrimination because of a person's color, race, national origin, religion, or *sex* was passed after a 75-day *filibuster* in the Senate? The debate was one of the longest in Senate history.
- With the growing attention to the importance of worldwide equal rights for women, it is OUTRAGEOUS that unlike the constitutions of over 50 nations, the United States Constitution still does not guarantee equal rights on account of sex. The following are just a few countries which have explicit statements on women's equality or non-discrimination based on gender in their constitutions:

Austria	Finland	Portugal
Bosnia and Herzegovina	Hungary	South Africa
Canada	Japan	Switzerland
Ethiopia	Madagascar	Thailand
Fiji	Mexico	Turkey

- Over thirty years have elapsed since Congress passed the Equal Rights Amendment. This historic Constitutional Amendment was intended to ensure equality for women and men in all areas of society. When Congress passed the ERA in 1972, it provided that the measure had to be ratified by the necessary number of states (38) within 7 years. (The deadline was later extended to 10 years). The ERA was only three states shy of full ratification at the 1982 deadline.
- During the last 30 years, women have made extraordinary strides toward achieving equality. The Supreme Court decision in the Virginia Military Institute case (*Virginia v. United States*) helped clarify that gender "classifications may not be used... to create or perpetuate the legal, social, and economic inferiority of women." But without the ERA, laws can still perpetuate gender classifications that keep women from achieving their full potential. Passage of the ERA is not only the constitutional affirmation of the Supreme Court's Virginia Military Institute decision, but it could potentially subject the government to a higher level of scrutiny when making classifications based on sex.
- Because of *Virginia v. United States*, the courts currently determine whether a government statute or classification is discriminatory by using a heightened standard of the intermediate scrutiny test. The intermediate scrutiny test provides that the government must prove that its classification based on sex is *substantially related to achieve an important government interest*. The passage of a constitutional amendment regarding sex discrimination would

likely raise the standard utilized by the courts from intermediate scrutiny to strict scrutiny. The strict scrutiny test, which is currently only applied to classifications based on race, national origin, and alienage, is nearly impossible to overcome. Strict scrutiny requires that the government prove the classification is *necessary to achieve a compelling government interest, with no less restrictive means to achieving that interest available*. This standard makes the government's task in justifying a classification extremely difficult, and therefore, a government classification based on sex would likely be held unconstitutional if the strict scrutiny standard were utilized.