



HJ0138

LRB100 22309 MST 41094 r

1

HOUSE JOINT RESOLUTION

2

WHEREAS, The Ninety-second Congress of the United States of America, at its Second Session, via supermajority vote of both Houses adopted a Joint Resolution to amend the Constitution of the United States of America with language commonly referred to as the "ERA" on March 22, 1972, with a seven-year deadline for ratification by the states, to March 22, 1979; and

8

WHEREAS, The ERA reads, "Section 1: Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex. Section 2: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article. Section 3: This amendment shall take effect two years after the date of ratification."; and

15

WHEREAS, In 1983, Congressman F. James Sensenbrenner drafted and offered a commonsense abortion neutrality clause to the ERA, which reads, "Nothing in this Article shall be construed to grant, secure, or deny any right relating to abortion or the funding thereof."; and

20

WHEREAS, On January 22, 1973, the United States Supreme Court issued Roe v. Wade and Doe v. Bolton, overturning the abortion laws of 46 of the 50 states, including Illinois, and

21

22

1 reading a right to abortion-until the moment of birth-into the
2 United States Constitution, despite the Constitution not
3 including any mention of abortion whatsoever and abortion not
4 being allowed in the vast majority of states for most of U.S.
5 history; and

6 WHEREAS, Only 30 of the necessary 38 states ratified the
7 ERA by the 1979 deadline, with 24 of those ratifications
8 specifically referring to that 1979 deadline, and with 5 states
9 approving but then rescinding their ratifications; and

10 WHEREAS, In 1978, Congress attempted to effect, via a
11 statute passed by a mere majority vote an extension of the
12 ratification of the ERA, from the original deadline of seven
13 years to June 30, 1982; and

14 WHEREAS, The United States District Court ruled on December
15 23, 1981 in Idaho v. Freeman that the attempted ERA extension
16 attempted by Congress was unconstitutional and that the
17 rescissions of States from the ERA were constitutional and
18 effective; and

19 WHEREAS, In the appeal of Idaho v Freeman (NOW v Idaho),
20 decided after the attempted June 20, 1982 extended date for
21 ratification, the United States Supreme Court vacated the
22 court's opinion and remanded to the District Court with

1 direction to dismiss the case as moot, thus indicating that the
2 ERA was no longer properly before the states for ratification;
3 and

4 WHEREAS, The Supreme Court has thus ruled that any action
5 by the Illinois General Assembly purporting to ratify the Equal
6 Rights Amendment as adopted by the Congress in 1972 would be
7 illegal and unconstitutional; and

8 WHEREAS, One of the critical concerns of state legislators
9 and citizens in the years post-Roe was the emerging argument by
10 proponents that ERA could force taxpayer funding of abortions,
11 reverse parental notice and consent requirements prior to an
12 abortion performed on a minor, and otherwise eviscerate state
13 abortion regulations; and

14 WHEREAS, When the ERA was reintroduced in Congress in 1983,
15 numerous legislators and religious leaders, including
16 then-Chicago Cardinal Joseph Bernardin and the National
17 Conference of Catholic Bishops, stated that, while they wished
18 to support ERA, they could not do so unless and until an
19 abortion neutrality clause was added to ERA, to ensure ERA
20 could not be used to force taxpayer-funded abortion, overturn
21 parental notice laws, and other reasonable abortion
22 regulations; and

1 WHEREAS, As part of the deliberations on ERA in 1983,
2 hearings were held before the United States Senate Judiciary
3 Constitution Subcommittee, where noted Illinois attorney and
4 statesman Congressman Henry J. Hyde, testified that, "recent
5 experience suggests that the ERA, if it is proposed and
6 ratified without an explicit provision against its use as a
7 proabortion device will, in fact, be used to sweep away the
8 minimal protection of unborn children that the courts currently
9 allow, and also to mandate tax funding for abortions"; and

10 WHEREAS, Congressman Hyde specifically recited in his
11 testimony legal cases from 1978 Hawaii Right to Life v. Chang,
12 1980 Moe v. King (Massachusetts), and 1983 Fischer, Planned
13 Parenthood, et al v. Department of Public Welfare
14 (Pennsylvania), where the ACLU repeatedly argued that ERA
15 mandated taxpayer-funded abortion; and

16 WHEREAS, The pro-choice sponsors of ERA rejected and
17 refused to adopt the Sensenbrenner abortion neutrality
18 language when ERA was reintroduced in 1983, which caused the
19 reintroduced ERA to fail in the Congress; and

20 WHEREAS, In the years since, the Supreme Court of New
21 Mexico decided NM Right to Choose/NARAL v. Johnson, unanimously
22 holding that the New Mexico constitution's ERA requires
23 taxpayer funded abortion; the Connecticut Superior Court

1 decided Doe v. Maher, holding that the Connecticut
2 constitution's ERA requires taxpayer funded abortion; the
3 Texas Court of Appeals, Third District, decided Low-Income
4 Women of Texas v. Bost, holding that Texas constitution's ERA
5 requires taxpayer funded abortion (later reversed); the
6 Illinois Appellate Court, 1st District, decided Hope Clinic v.
7 Adams, holding that the Illinois constitution's clause
8 guaranteeing equal protection for sex requires strict and
9 presumably fatal scrutiny to be applied against the Illinois
10 Parental Notice of Abortion Act (later reversed); and

11 WHEREAS, The Illinois General Assembly supports passage of
12 the ERA in a modified form, to ensure ERA's neutrality on
13 taxpayer funded abortion, parental notice prior to an abortion,
14 and other regulations on abortion; therefore, be it

15 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE ONE
16 HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE
17 CONCURRING HEREIN, that we hereby urge Congress to adopt anew
18 the ERA, with the common-sense abortion-neutral language of
19 Congressman Sensenbrenner, and send it to the states for
20 ratification; and be it further

21 RESOLVED, That suitable copies of this resolution be
22 presented to the Speaker and Clerk of the United States House
23 of Representatives, the President Pro Tempore and Secretary of

1 the United States Senate, and the members of the Illinois
2 Congressional Delegation.