

The Equal Rights Amendment and Same-Sex Marriages

Some ERA opponents warn that passage of the Equal Rights Amendment will guarantee same sex marriages. This is a myth.

The Equal Rights Amendment does not concern gender preferences or sexual orientation. It says only that “equality of rights under the law shall not be denied because of sex”. In this context, sex means gender, just as it does in the 19th Amendment which gave women the right to vote, and in subsequent Civil Rights Laws that sought to end discrimination based on sex (as well as discrimination based on race, religion and national origins). Sexual orientation and sexual preferences do not fall under the meaning or intent of the ERA or of the 14th Amendment’s Equal Protection clause. To date, only race, religion, national origins, and sex are “suspect classes” that prompt special concern because of persistent past patterns of discrimination of persons in each category.

In 1974, a case in Washington state (*Singer v Hara*) that claimed their state’s ERA allowed for same sex marriages was rejected. More recently, in Massachusetts (2003), Washington (2006), and Maryland (Sept. 2007) where cases of same sex marriage have been argued, the courts rejected claims that the state ERA supported same sex marriage.

In the Washington case in 2006, the state Supreme Court overturned two cases in which Trial Courts ruled that the state’s Defense of Marriage Act that prohibited same-sex marriages was unconstitutional. These cases were appealed to the state Supreme Court which ruled that the plaintiffs were not members of a “suspect” class as determined by the US Constitution and Supreme Court, and that no violation of their rights had occurred. The Court also ruled that the state Defense of Marriage Act treated both sexes the same: neither a man nor a woman could marry one of the same sex. The Court also referenced the Federal Defense of Marriage Act.

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Thanks to www.4ERA.org – Myths and Facts

Additional information: “In the Supreme Court of the State of Washington, No. 75934-1”
Case transcript