

Update: May 2, 2023

From: Jennifer Popik, J.D. - Director of Federal Legislation National Right to Life

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Friends,

I wanted to flag several items for your attention.

1. **Equal Rights Amendment (ERA) – Senate Vote Fails**
2. **California Case Filed by Disability Rights Groups Challenges State Assisted Suicide Law**
3. **Urging Co-Sponsorship of the No Taxpayer Funding for Abortion Act (H.R. 7)**
4. **FDA Chemical Abortion Drugs – next hearing May 17**

As always, you can find your member of Congress' voting record here:

<https://www.votervoice.net/NRLC/home>

### **1. Equal Rights Amendment (ERA) – Senate Vote Fails**

DEMOCRATS' UNCONSTITUTIONAL ATTEMPT TO RESURRECT 1972 EQUAL RIGHTS AMENDMENT GETS MAJORITY BUT FALLS SHORT OF 60 VOTES NEEDED IN U.S. SENATE.

On April 27, 2023, Senate Majority Leader Charles Schumer (D-NY) finally held the oft-delayed vote on whether to advance a measure purporting to make the 1972 Equal Rights Amendment part of the Constitution, S.J. Res. 4. Because this was a cloture vote, 60 affirmative votes were required to advance the measure, which NRLC strongly opposed. The official tally was 51 votes in favor, 47 opposed, or 9 votes short of the necessary 60.

All voting Democrats, and the three independents who caucus with the Democrats, voted to advance S.J. Res. 4. They were joined by only two Republican senators, Lisa Murkowski (Ak.) and Susan Collins (Maine). Senator Feinstein (D-Calif.), an ERA supporter, was absent.

All other voting Republicans voted against cloture (the pro-life vote). Senator Mike Lee (Utah), an opponent of the ERA, was absent.

Senator Schumer switched his vote to "nay" at the end, because under Senate rules that allows him to call a short-notice repeat vote at a time of his choosing. Therefore, if every senator had been present and recorded in accord with his or her true position, the tally would have been 53 to 47 for cloture -- 7 votes short of the 60 required.

This good outcome was a testament to the work done by NRLC staff and affiliates and other ERA opponents over the past three years and more. The pro-ERA side ended up with the same two Republican senators who have been in their corner going back to 2020 or earlier, Senators

Murkowski and Collins. The pro-ERA forces failed to convert a single senator in three years of lobbying, propaganda, and highly sympathetic media coverage.

In a release issued by NRLC after the vote, Douglas Johnson, director of the NRLC *ERA Project*, said, "While some ERA true-believers will assert that today's vote was a mystical victory for the ERA, they further delude themselves. ERA-revival advocates continue to deflect news media attention away from the fact that the federal courts have consistently rejected legal claims that the 1972 Equal Rights Amendment remains viable. The most recent such ruling was by the U.S. Court of Appeals for the District of Columbia on February 28, rejecting the claim of Illinois and Nevada that the ERA has been ratified—a unanimous ruling by a panel made up of judges appointed by Presidents Obama, Biden, and Trump." Johnson also noted that a [White House Statement of Administration Policy on S.J. Res. 4](#), issued hours before the Senate vote, "conspicuously avoided language asserting that the resolution would have a legal effect, but instead merely observed that the resolution 'would declare' the ERA to be part of the Constitution."

An anti-ERA resolution (S. Res. 107), introduced by Senator Cindy Hyde-Smith (R-Miss.) as an educational tool and endorsed by NRLC, gained three more co-sponsors last week, bringing the total number of co-sponsors (including Hyde-Smith) to 21. In alphabetical order by state, they are: Boozman (Ark.), Cotton (Ark.), Rubio (Fla.), Risch (Idaho), Braun (Ind.), Marshall (Kan.), Moran (Kan.), Kennedy (La.), Cassidy (La.), Hyde-Smith (Miss.), Wicker (Miss.), Hawley (Mo.), Ricketts (Neb.), Budd (N.C.), Vance (Ohio), Lankford (Okla.), Mullin (Okla.), Graham (S.C.), Cruz (Texas), Lee (Utah), and Barrasso (Wyo.).

Most national Democrats see the ERA as a politically useful organizing tool, so you will continue to see it in the media. We expect that the pro-ERA forces in the House of Representatives, led by Reps. Ayanna Pressley (D-Mass.) and Cori Bush (D-Mo.), will file a discharge petition on the House version of the ERA-revival measure, H.J. Res. 25, perhaps before the end of May. H.J. Res. 25 currently has 187 co-sponsors, and it may eventually be co-sponsored by all 213 House Democrats. However, so far only one Republican has co-sponsored the measure -- Rep. Brian Fitzpatrick (Pa.). In order for a discharge petition to successfully extract H.J. Res. 25 from the House Judiciary Committee and force a vote of the full House, at least *five* Republicans would have to sign the discharge petition -- "a steep climb," Johnson said.

We will keep you apprised of further developments on the ERA in future updates. Please refer questions or media inquiries pertaining to the federal Equal Rights Amendment to *ERA Project* Director Douglas Johnson at [djohnson@nrlc.org](mailto:djohnson@nrlc.org). For real-time updates on developments pertaining to the federal ERA, we encourage you to follow the non-NRLC but helpful "ERA-skeptical" Twitter account [@ERANoShortcuts](#).

## **2. California Case Filed by Disability Rights Groups Challenges State Assisted Suicide Law**

National Right to Life applauds a recently filed case in California challenging the state's assisted suicide law as unconstitutional. We will be closely monitoring developments, as this case could have nation-wide implications if successful.

Assisted suicide is legal in 9 states (CA, CO, HI, ME, NJ, NM, OR, VT, WA) and D.C.

Today, Vermont lifted their residency requirements in order for people to obtain assisted suicide, joining with Oregon to become suicide tourism states. Vermont in particular permits assisted suicide by telemedicine, meaning non-residents could be prescribed lethal drugs virtually on the basis of a single virtual visit.

The new case in California is claiming that the state's assisted suicide law is discriminatory in that it creates a two-tiered medical system in which people who are suicidal are protected, and treated, while a person with a "terminal disease" (which is classified as a disability under the Americans with Disabilities Act) is not protected, but given the option of lethal medication to end their life.

According to a legal synopsis from the plaintiffs,

The Americans with Disabilities Act (ADA) is an important federal law that prohibits discrimination against people with disabilities in various aspects of life including medical treatment. The ADA defines disability as a physical or mental impairment that substantially limits one or more major life function. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability.

Individuals who are facing life-threatening conditions qualify as people with disabilities under the ADA, as those conditions themselves not only cause physical and/or mental impairments, they are impairments that substantially limit major life functions. The lawsuit seeks to establish that California's assisted suicide law is a violation of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the equal protection and substantive due process clauses in the 14th Amendment of the US Constitution. (See more here: <https://endassistedsuicide.org/>)

The court filing is available here: [https://endassistedsuicide.org/wp-content/uploads/2023/04/Complaint\\_Accessible.pdf](https://endassistedsuicide.org/wp-content/uploads/2023/04/Complaint_Accessible.pdf)

### **3. Urging Co-Sponsorship of the No Taxpayer Funding for Abortion Act (H.R. 7)**

In the coming weeks, National Right to Life will continue working on soliciting more co-sponsors for H.R. 7 the *No Taxpayer Funding for Abortion and Abortion Insurance Full Disclosure Act* – sponsored by Rep. Chris Smith (R-N.J.).

There are now 149 cosponsors. You can find the always-current list of cosponsors on our NRL Action Site here: <https://www.votervoice.net/NRLC/Bills/47537>

This bill would make the long-standing Hyde Amendment permanent. The bill also includes provisions to prohibit federal funding of abortion as well as funding for any insurance plan that includes elective abortion. It's estimated that before the Hyde Amendment took effect, the Medicaid program paid for about 300,000 elective abortions annually, and that the number was escalating rapidly. The Hyde Amendment is estimated to have saved over 2.5 million lives.

Current Factsheet is here:

<https://www.nrlc.org/federal/ahc/key-points-no-taxpayer-funding-for-abortion-nrlc2023/>

#### **4. FDA Chemical Abortion Drugs – next hearing May 17**

On Friday, April 21, the U.S. Supreme Court released a decision that stayed lower court rulings and returned the issue to the 5th Circuit for a full hearing in *Alliance for Hippocratic Medicine v. U.S. Food and Drug Administration (FDA)*. Chemical abortion drugs will stay on the market, for now. However, the 5th Circuit Court of Appeals will take up the case in a full hearing scheduled for May 17.

In the lawsuit led by Alliance Defending Freedom (ADF), the plaintiffs argued that the FDA unlawfully fast-tracked the approval of mifepristone through a process intended for the treatment of life-threatening illnesses, and subsequently improperly removed safety protocols.

On April 5, National Right to Life released a white paper about the myths involving the Food and Drug Administration's (FDA) approval and management of mifepristone (generic for Mifeprex). *Addressing Many of the Myths the Media is Repeating about the FDA's Approval and Management of Mifeprex (Mifepristone)* can be accessed [here](#).

Our full release is available here: <https://www.nrlc.org/communications/nrlc-on-the-u-s-supreme-court-decision-regarding-the-abortion-drug-mifepristone/>

Americans United for Life filed a friend-of-the-court brief to the Supreme Court on behalf of 147 Members of the United States Congress, and further briefs are expected.

<https://aul.org/2023/04/18/147-members-of-congress-urge-supreme-court-to-keep-health-and-safety-safeguards-for-abortion-drugs/>