



# The Phyllis Schlafly Report



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## The Precious Rights ERA Will Take Away From Wives

"The husband must support himself, his wife, and his minor children out of his property or by his labor. If he is unable to do so, the wife must assist him so far as she is able. If he neglects to support his wife, any other person, in good faith, may supply her with necessities for her support, and recover the reasonable value thereof from the husband unless she abandons him without cause."

This Ohio law is a beautiful statement of the financial responsibility incurred by the marriage contract, and it is a good example of the superb rights that wives will lose if the so-called Equal Rights Amendment to the U.S. Constitution is ever ratified.

The Equal Rights Amendment will *invalidate all the state laws* which impose the obligation on the husband to support his wife. These laws are fundamental to the institution of the family. They give the wife her legal right to be a fulltime wife and mother, in her own home, taking care of her own babies.

### Doctrinaire Equality

The Equal Rights Amendment will mandate a doctrinaire legal equality between the sexes, and will make unconstitutional any laws which impose an obligation on one sex that it does not impose on the other. If ERA ever becomes the 27th Amendment to the U.S. Constitution, all laws which say the *husband* must support his *wife*, will immediately become unconstitutional. Either the State Legislatures will be forced to rewrite the state laws on marital support and make them "sex-neutral," or, if the Legislatures fail to act, the Courts will nullify the present laws.

Pro-ERA lawyers *cannot* deny this essential, inescapable, radical and far-reaching result of ERA. As a matter of fact, they *have not* denied this in testimony at the various State Legislative hearings around the country. In order to divert attention from this revolutionary and unwanted effect of ERA, the proponents resort to various diversionary arguments and other semantic chicanery.

### Diversionary Arguments

The first tactic of ERA proponents is usually to divert the argument from the rights of the *wife* to the plight of the *divorced* woman. This is a different argument altogether. When a woman goes through a divorce, she loses the rights of a wife. These rights then belong to her ex-husband's new wife. The law usually does not guarantee the right of support to the divorced woman. Her support rights are based on the decree of the court which granted the divorce. It is the rights of

the wife in an *on-going marriage* which are so superior and which ERA will take away.

There is, however, one dramatic way that ERA will curtail the rights of a divorced woman: she will lose her *presumption of custody* of the children. The divorce court will be required to award custody of the children on the new constitutional principle of *equality* between the sexes -- instead of on the present *presumption* that the mother keeps her children.

Pro-ERA lawyers have to admit that the Equal Rights Amendment will enunciate a radical new principle of *equality* in the matter of family support. This means that the wife's obligation to support her husband will be *equal* with the husband's obligation to support his wife. The obvious legal result is that a wife will lose her right to be supported, and will have a *legal obligation* to go to work to provide half the family income.

Pro-ERA lawyers have only one answer to this. They say that ERA will merely require that the law be changed to "sex-neutral" language, so that the principal wage-earner will be required to support the spouse who stays in the home. This reduces the wife's rights even further! Taking their own argument, this means that, if the husband is lazy and wants to drink beer and watch television all day, and the wife is a conscientious woman who takes a job to feed her hungry children, then she, as the "principal wage-earning spouse" would acquire the *obligation* to support her lazy husband, subject to criminal penalties if she failed to support him and pay all his debts!

### Love or Duty?

Some ERA proponents argue that husbands support their wives only because of love, not because of the law. Most husbands do support their wives because of love, but the high divorce rate proves that many husbands *do not* love their wives. Love may go out the window, but the obligation remains, just as the children remain. ERA would remove that obligation.

Some ERA proponents ask, what good are criminal penalties as a means of requiring a husband to support his wife? The answer is very simple. We live in a society which believes in the enforceability of contracts. Some people live up to their contracts because they know that, at the end of a long trail of court action, they either have to fulfill their contracts or suffer penalties. Most people pay up before they get to court, and most of those who do go to court, pay up during litigation before they lose their property by court order.



This is the reason why 99 percent of contracts are self-enforcing. If you buy a car on time, or lease an apartment, or buy insurance, so long as you fulfill your contract by making your payments on time, no court interferes. The average person knows that, if he fails to make his payments on time, his car will be repossessed, or he will be evicted from his apartment, or his insurance will be cancelled.

Likewise, in marriage, in most cases, a wife does not need to go to court to get support money from her husband. The husband knows that, if he doesn't, his wages may be garnisheed, his bank account attached, he may have to post a bond, or ultimately go to jail.

ERA would proclaim to all the world that the marriage contract no longer includes the obligation of a husband to support his wife. This would take away the most basic and precious legal right every wife now enjoys.

Congresswoman Leonor Sullivan eloquently summed up this matter of family support in her speech to the Congress explaining why she voted *against* the Equal Rights Amendment:

"Individual women have supported husbands in indolence or in the pursuit of professional education or in the arts and literature, and individual women have that right, including the right to support the children, too. But I do not wish to see -- and to vote for -- a constitutional amendment which would require all women to be equally obligated with their husbands to support the family, even though millions of women may choose to do so."

### Origin of a Wife's Rights

Many women don't seem to know what their present rights are. The common-law right of a wife to be supported by her husband is so much a part of our entire social, legal, and religious fabric that, to meet someone who denies it is almost like encountering someone who believes the earth is flat. So, it has become necessary to prove the obvious to the ignorant.

The right of a wife to be supported by her husband in every state in the United States stems from one or more of three sources:

1. *Statute law*: the laws passed by the State Legislature.

2. *Common law*: the laws derived from English custom and court decisions.

3. *Case law*: The decisions of the state and Federal courts adjudicating controversies.

State statutes and case law on the matter of family support vary in details from state to state. But *the sum of these laws speaks with a unanimous voice* that one of the legal precepts most firmly engrained in our society in the obligation of the husband to support his wife.

The remainder of this newsletter is devoted to the briefest summaries from the wife-support laws in the 50 states, so that our readers can see the *national consistency* of the obligation, and the *variety of rights* which wives will lose if ERA is ratified.

This newsletter is *not* designed as a legal brief or as a complete statement of the laws in each of the 50 states. The space available in this newsletter does not permit that. This newsletter is designed to stimulate your interest to research *all* the family support laws in your state by showing you some of the many *different* laws that exist in different states. Ask a lawyer in your state to help you. These laws include:

1. The right of the wife to be supported according to the means of her husband.

2. The right of a wife to be supported regardless of any independent income or property which she may possess.
3. The right of a wife to be provided with a home by her husband.
4. The right of a wife to get credit in her husband's name and have him obligated for payment of all her necessities such as food, clothing, housing, and medical and dental care.
5. In some states, the right of a wife to require her husband to post a bond to guarantee payment for her support.
6. Criminal penalties on the husband if he fails to live up to his obligation to support his wife.

**Alabama:** Any husband who, without just cause, willfully neglects to provide for support and maintenance of his wife or his children under age 18, is guilty of a misdemeanor. Temporary and permanent orders for support may be made. Bonds may be required to make payments as ordered. *Alabama Code, 34-89-104.*

**Alaska:** A husband who, without lawful justification, willfully refuses or neglects to provide his wife with necessary food, clothing, shelter or medical attendance, is guilty of a misdemeanor, punishable by fine or imprisonment. *Alaska Statutes, 11.35.010.*

**Arizona:** All property acquired by either husband or wife during marriage is community property (which means that the wife has ownership of 50 percent of her husband's earnings). A wife may contract debts for herself and her children upon the credit of her husband. *Arizona Revised Statutes, 25-211 and 25-215.*

**Arkansas:** Husband who willfully neglects or refuses to provide for the support and maintenance of his wife and/or child, or who leaves home without making reasonable provisions for their support, is guilty of a misdemeanor, punishable by fine and imprisonment. *Arkansas Statutes, 41.204.*

**California:** A husband failing to support and maintain his wife or children may be sentenced to imprisonment in the penitentiary. *California Statutes, 43-1-1.* If husband neglects to make adequate provision for support of his wife, any other person may, in good faith, supply her with articles necessary for her support and recover from the husband. *West's Annotated California Codes, Husband and Wife, 174.*

**Colorado:** A husband who willfully neglects, fails or refuses to provide reasonable support and maintenance for his wife or children under 16, or who willfully fails or refuses to provide proper care, food and clothing in case of sickness for his wife or children, is guilty of a felony, punishable by imprisonment. *Colorado Revised Statutes, 43.1.1.*

**Connecticut:** It is the duty of the husband to support his family, and his property shall be first applied to satisfy any such joint liability; and the wife shall be entitled to an indemnity from her husband's property for any property of her own that has been taken. Husband who neglects to furnish reasonably necessary support to his wife or child is subject to imprisonment. *Connecticut General Statutes, 809-46-10 and 53-304.*

**Delaware:** Any husband who, without just cause, willfully neglects or refuses to provide for the support



and maintenance of his wife or child under 18 shall be fined or imprisoned. *Delaware Code Annotated*, 13-501 and 502.

**Florida:** Any husband who shall willfully withhold from his wife or child the means of support is guilty of a felony, punishable by fine or imprisonment. *Florida Statutes*, 856.04.

**Georgia:** Husband is charged with duty of supporting his wife, and is liable for all necessities bought by her for herself and the family which are suitable to her condition and habits of life. *Georgia Code Annotated*, 53-510.

**Hawaii:** Husband is bound to maintain, provide for and support his wife during marriage, in the same style and manner in which he supports himself; and is liable for all debts contracted by his wife for necessities for herself or family during marriage. *Hawaii Revised Statutes*, 573-7.

**Idaho:** A husband who fails to support his wife, or who neglects to provide his wife with necessary food, clothing, shelter, or medical attendance, is guilty of a felony. In addition to a fine, the court may order the husband to pay a certain amount weekly to his wife, requiring him to post a bond. *Idaho Code*, 18-401.

**Illinois:** Husband is liable for the support of his wife. Wife is responsible for support of husband if he is in need of such support and is, or is likely to become, a public charge. A husband who, without lawful excuse, neglects or refuses to provide for support or maintenance of his wife is guilty of a misdemeanor, punishable by fine or imprisonment. *Illinois Revised Statutes*, 23-10-2, and 68-24.

**Indiana:** A husband who deserts his wife or children without reasonable means of support is guilty of a felony. *Burns Indiana Statutes Annotated*, 10-1401.

**Iowa:** Husband's willful neglect or refusal to provide for support of wife or children is guilty of a felony, punishable by imprisonment. *Iowa Code Annotated*, 731.1.

**Kansas:** Any individual who, without just cause, fails to provide for support and maintenance of his spouse is guilty of a crime, and courts may make orders providing for support. *Kansas Statutes Annotated*, 21-3605.

**Kentucky:** It is a felony, punishable by imprisonment, for a husband to desert his pregnant wife without proper provision for her board, clothing and proper care, considering her station in life. *Kentucky Revised Statutes*, 435.240.

**Louisiana:** Husband is obliged to furnish his wife with whatever is required for the convenience of life, in proportion to his means and condition. *Louisiana Civil Code*, 4-120.

**Maine:** Whenever a husband willfully and without cause, refuses or neglects to provide suitable maintenance for his wife and children, the courts may order him to contribute to their support in such weekly, monthly or quarterly sums as are reasonable and just, and may enforce obedience by appropriate decrees. *Maine Revised Statutes Annotated*, 19-301.

**Maryland:** Husband has the liability for the debts, contracts and engagements which the wife may incur or enter into upon her husband's credit for necessities for herself and their children. Any husband who willfully neglects to provide for the support and maintenance of his wife and minor children is guilty of a misdemeanor, and the court may order weekly payments to the wife. *Maryland Code Annotated*, 45-21, and 27-88-96.

**Massachusetts:** Criminal proceedings may be brought against a husband who, without just cause, unreasonably fails to support his wife, and orders for support have been given frequently in such proceedings. *Massachusetts General Laws*, 273-1.

**Michigan:** Husband is liable criminally for support of his wife. In contracting for family necessities, wife is presumed to act for her husband. *Michigan Compiled Laws Annotated*, 750-161, and 26 Mich. 179.

**Minnesota:** Intentional failure to provide care and support by husband to wife or child is a misdemeanor; failure to so provide for pregnant wife is a felony. Court may require bond to guarantee payment. *Minnesota Statutes*, 609.375.

**Mississippi:** Courts recognize the right of the wife to maintenance and support. 152 Miss. 201, 119 So. 299.

**Missouri:** Husband who, without good cause, neglects or refuses to provide adequate food, clothing, lodging or medical attention for his wife is guilty of a misdemeanor and shall be punished. If the husband neglects or refuses to provide for his wife, the courts shall order such support to be paid by the husband out of his property and compel the husband to give security for such maintenance. *Missouri Revised Statutes*, 452.130 and 559.353.

**Montana:** Husband who willfully fails to furnish necessary food, clothing, shelter or medical attention to his wife without lawful excuse is guilty of a misdemeanor; courts may impose fine payable to the wife, direct the husband to pay a certain sum weekly, or imprison the husband. *Montana Revised Code*, 94-301 and 302.

**Nebraska:** Husband may be required to furnish a bond to assure support payments to his wife. If husband refuses to work to earn support money, he may be imprisoned. *Nebraska Revised Statutes*, 28-447 and 28-449.

**Nevada:** If husband does not furnish necessities to wife, any other person may do so and recover from husband. *Nevada Revised Statutes*, 123.090.

**New Hampshire:** A husband or father who neglects to maintain his wife or children, or neglects his employment or misspends his earnings so as not to provide for the support of his wife or children, may be imprisoned or fined; the fine may be directed in whole or part to the support of the wife. *New Hampshire Revised Statutes Annotated*, 460-23.

**New Jersey:** If husband without cause refuses or neglects to maintain and provide for his wife, the court may order suitable support and maintenance. Where husband cannot be found, the court may attach his estate to compel his appearance and performance. *New Jersey Revised Statutes*, 2A-34-24 and 2A-34-26.



**New Mexico:** If husband neglects to make adequate provision for support of his wife, any other person may supply her with articles necessary for her support and recover the value from the husband. *New Mexico Statutes Annotated*, 57-2-3.

**New York:** Husband is liable for support of his wife; father is liable for support of his child or children under 21. Wife is liable for support of husband only if he is incapable of supporting himself or likely to become a public charge. *McKinney's Consolidated Laws of New York Annotated*, 3A-32.

**North Carolina:** It is a misdemeanor for a husband willfully to neglect to provide adequate support for his wife and children. Husband may be committed to county jail and hired out by county commissioners, wages to be used toward support of wife and children. Court may award support money from husband's property or earnings. *North Carolina General Statutes*, 14-325 and 14-324.

**North Dakota:** Every husband who, without lawful excuse, willfully fails to furnish food, shelter, clothing and medical attention as is reasonably necessary to wife and minor child is guilty of a felony, punishable by imprisonment. Court may accept bond for future support; civil suit may be brought on bond. *North Dakota Century Code Annotated*, 14-07-15, 16, 18, 19, 21.

**Ohio:** Husband must support himself, his wife, and his minor children out of his property or by his labor. If he neglects to support his wife, any other person in good faith may supply her with necessities for her support and recover the value from the husband. *Ohio Revised Code Annotated*, 3103.03.

**Oklahoma:** Husband must support his wife out of his property or by his labor. A wife must support her husband if he is unable from infirmity to support himself. If the husband neglects to support his wife, any other person may, in good faith, supply her with articles necessary for her support and recover the value from the husband. *Oklahoma Statutes Annotated*, 32-10, 32-1-4.

**Oregon:** A husband who fails to provide proper support for his wife and minor children is guilty of a felony. *Oregon Revised Statutes*, 167.605.

**Pennsylvania:** Husband is bound to support his wife. If he fails to do so, he may be imprisoned and his property disposed of by the court in order to provide maintenance. *Purdon's Penn. Stat. Anno.*, 18-4731, 4733.

**Rhode Island:** Every husband who neglects to provide according to his means for the support of his wife or children is guilty of a misdemeanor, punishable by imprisonment. *Rhode Island General Laws*, 11-2-1.

**South Carolina:** A husband capable of earning or making a livelihood who shall, without just cause, fail to supply the necessities of life to his wife or minor children is guilty of a misdemeanor, punishable by fines or imprisonment. *South Carolina Code*, 20-303.

**South Dakota:** Husband must support himself and wife out of his property or by his labor. Wife must support husband if he is unable from infirmity to support himself. The earnings of the wife are not liable for the

debts of the husband. Every husband who without good cause neglects to provide for wife is punishable by imprisonment or fine. *South Dakota Compiled Laws*, 25-7-1,4,5.

**Tennessee:** It is a misdemeanor for a husband to willfully refuse to provide for his wife according to his means. He may be arrested or imprisoned or required to give bond. It is a felony to leave a wife or child destitute. *Tennessee Code Annotated*, 39-201.

**Texas:** Wife has community-property rights in the property and earnings of her husband. In addition, the husband is bound to support his wife and children from his separate property. *Hedtke v. Hedtke* (1923), 112 T. 404, 248 S.W. 21. *Allen v. Frank* (Civ. App. 1923), 252 S.W. 347.

**Utah:** A husband's willful neglect or refusal to support his wife is a felony, punishable by imprisonment at hard labor. *Utah Code Annotated*, 76-15-1.

**Vermont:** Husband is obligated to support wife; failure to do so is a crime, punishable by fine or imprisonment. *Vermont Statutes Annotated*, 15-201-10.

**Virginia:** A husband, without cause, who fails to support his wife is guilty of a misdemeanor. The court may issue temporary or permanent orders for support. Husband may be required to post a bond to guarantee payment. *Virginia Code*, 20-61-63, 71, 72, 79.

**Washington:** A husband who willfully refuses or neglects to provide his wife with necessary food, clothing, shelter or medical attendance, unless her misconduct justifies him, is liable to fine and imprisonment for felony, if children under 16 are involved, and for gross misdemeanor otherwise. Court may order a fine to be paid weekly to the wife. *Washington Revised Code*, 26.20.050.

**West Virginia:** A husband who, without just cause, willfully neglects or refuses to provide for the support and maintenance of his wife or children is guilty of a misdemeanor. A husband has the liability to support his wife and family. *Mitchie's West Virginia Code*, 48-8-1 and 48-3-24.

**Wisconsin:** A husband's willful neglect to provide for his wife's support and maintenance is a crime. Court may direct payment of a certain sum weekly. *Wisconsin Statutes*, 52.05 and 52.055.

**Wyoming:** Any husband who shall, without just cause, fail or refuse to provide adequately for the support and maintenance of his wife, is guilty of a felony, punishable by imprisonment. *Wyoming Statutes*, 20-71.

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