MINNESOTA CATHOLIC CONFERENCE

Testimony in Opposition to H.F. 501 (Finke) (Constitutional amendment providing for equality under the law)
House State and Local Government Committee
April 3, 2025

Chair Klevorn and Members of the Committee,

We write to oppose this constitutional amendment which is both unnecessary and does not appear to be solving an identified problem that is not currently addressed by current law. Instead, it is an open-ended invitation for judges to create new rights, mandates, entitlements, and forms of discrimination and will likely lead to a host of unforeseen consequences. It will also be used as a sword against people of faith and others who recognize that human nature is not endlessly malleable. Biology is not bigotry, and not all distinctions are discrimination. Vote no on the ERA in its current form.[1]

Sex and gender discrimination is already banned in state and federal law

Under existing case law, the Minnesota Constitution commands that all persons must receive equal protection of the laws. In addition to longstanding federal and state constitutional protections barring discrimination, the Minnesota Human Rights Act (MHRA) bans sex and gender discrimination (including sexual orientation and gender identity), rendering this ballot measure redundant. Further, after the *Bostock* decision by the U.S. Supreme Court, federal civil rights law also forbids discrimination based on sexual orientation and gender identity in the employment context. And federal courts are already applying *Bostock* to other areas of the Civil Rights Act.

The amendment is not a shield against discrimination, but instead a sword against those who disagree

With both state and federal law already shielding people from gender-based discrimination, one wonders about the actual legislative intent of this constitutional amendment. As described above, the amendment is unnecessary as a *shield* against discrimination. We are concerned, however, that it will be used instead as a *sword* against people of faith and others who reject the concept of gender identity. The MHRA does not (quite reasonably) preclude all distinctions based on sex or gender. It further provides conscience protections and religious liberty for those persons and groups who make sex- and gender-based distinctions in education, employment, housing, and association. Thus, the MHRA represents a balancing of interests that were carefully crafted during the legislative process.

This amendment, however, gives judges a new tool to override both statutory and state constitutional protections for conscience and religious freedom when those come into conflict with new forms of gender equality. In particular, it will undermine the ability of religious non-profits, charities, and healthcare facilities to serve consistent with their mission and views on sexual identity. It provides no protection

[1] One partial remedy is to limit the amendment to barring sex discrimination only, not gender identity, as 27 of the other 29 states that have adopted an ERA have done.

against discrimination based on religion, which, in a time of heightened religious intolerance makes sense only if the intent is to undermine the free exercise of religion.

The amendment will likely lead to a host of unforeseen consequences

The amendment would empower judges to identify new forms of sex and gender discrimination, unthinkable even just five years ago. Here is just a short list of the possibilities: the mandatory mixing of the sexes in homeless shelters; gender-neutral restrooms and changing facilities in both public and private facilities; mandated state-funded assisted reproduction technology or surrogacy arrangements for transgender persons and same-sex couples; mandatory insurance coverage (public and private) for gender transition therapies; and the erosion of healthcare rights of conscience.

As with taxpayer funding of abortion, already mandated by our state Supreme Court to supposedly ensure equality for all women, taxpayers will foot the bill for these emerging mandates.

The triumph of gender identity is the real war on women

The irony of an amendment that protects gender equality is that it undermines the equality of the sexes, seen most plainly in the absurd spectacle of biological males dominating women's sports. The amorphous concept of gender swallows whole the matter of the equality of the sexes, not to mention the reality of sexual difference and the distinctions that are made because of those differences. Although there is an errant view of the sexes that depicts equality as sameness, thereby making women's equality dependent on their ability to behave like men, at least it recognizes the reality of the sexual binary. Gender identity, however, allows men to play women, and vice versa, undermining both women's equality and the dignity of the unique nature of women altogether.

Ironically, proponents of the Equal Rights Amendment in Minnesota are no longer fighting for women, as they once may have intended. Instead, they are trying to further entrench radical gender ideology into law, without even being able to offer a definition to Minnesota voters.

Undoubtedly, some well-intentioned proponents want to stop discrimination in all its forms. We share that goal because each person, regardless of biological sex or asserted gender identity, is made in the image and likeness of God. Therefore, we supported the inclusion of sexual orientation and gender identity protections against discrimination in the 1993 reforms to the human rights act—protections that were balanced in statute with associational and religious liberty protections. This amendment's purpose is to invite the undemocratic judicial override of those careful balancing of interests.

For all these reasons, the Legislature should reject that which is a redundancy in combatting unjust discrimination and will empower judges to impose many unforeseen consequences. Thank you for your consideration.

Respectfully submitted,

Maggee Hangge, Assistant Director for Family Policy, mhangge@mncatholic.org