

On February 23, 10 women met in Raleigh with Roberta Madden to work on the Equal Rights Amendment ratification by our state legislature. Roberta has worked toward passage of the ERA since 1972, and continues to travel around the state urging women to write to their legislators to support the amendment. The NC State Assembly last considered the ERA in 1982, but there is hope that it will be considered again this year. Carla Cunningham, (D-Mecklenburg), will introduce it soon with Rep. Mickey Michaux, (D-Durham) as a primary sponsor in the NC house. In the NC senate, Sen. Floyd McKissick, (D-Durham) is the primary sponsor, and Sen. Terry Van Duyn (D-Buncombe) is the co-sponsor. However, Carla Cunningham is looking for Republican co-sponsors and urges all of us who care about this issue to write to members of the NC Assembly.

Why should we care about passage of the ERA? For starters, pay inequity--women can be paid less than men for doing the same work. On the average, men earn 25% more. April 14 is Equal Pay Day—it represents the date that women start earning money whereas men have been earning since January 1. Not surprisingly, the hackers that broke into Sony Pictures in December exposed that women were paid less—a female executive was paid 1 million less than her male counterpart (Beth Walton, Citizen-Times).

The ERA would eliminate pregnancy discrimination. While working for UPS, Peggy Young became pregnant. Her doctor approved a weight limit of 20 lbs. for the first 20 weeks of her pregnancy, and 10 lbs. thereafter. Ms. Young applied for a light duty position, but was told that those were given only to people who were hurt on the job, met the American Disabilities Act requirements, and had lost their DOT license. The court upheld UPS' position, and Ms. Young found herself pregnant and without a job. The court found that while she could not do her job at UPS, she was capable of doing other work. One can imagine the prospect of employment when visibly pregnant, and the unlikelihood that the new salary (should she be so lucky) would match the old. California is the only state that protects the rights of pregnant women but does not permit women in difficult pregnancies to qualify for disability. The courts see this as a maternity benefit, not an illness. In all other states, "the courts have said that women have no right to 'preferential treatment' as a result of pregnancy. In a compelling dissent by three Supreme Court justices, Justice William J. Brennan pointed out that the state disability fund paid compensation for 'virtually all disabling conditions without regard to cost, voluntariness, uniqueness, predictability, or 'normalcy' of the disability,' namely lost wages and medical expenses." (Jessica Neuwirth, *Equal Means Equal*) This is indeed a double standard; conditions faced by women alone are singled out. The ERA could create a right to sexual equality that in the context of pregnancy recognizes that women and men have equal rights to work and have children at the same time." (Jessica Neuwirth)

The third compelling reason to have an Equal Rights Amendment added to the constitution involves court rulings on private right of action. The courts have ruled that the Fourteenth Amendment was not designed to address private conduct, and the Supreme Court has affirmed this. Rape and domestic violence fall under private conduct. Christy Brzonkala, raped repeatedly at Virginia Polytechnic Institute by two football players who admitted their guilt, suffered through the institution's lackadaisical response. That same year, 1994, Congress passed the Violence Against Women Act. In 1995, Christy sued both Virginia Tech and her two attackers under the provision of the VAWA. The Fourth Circuit Court of Appeals "recited the longstanding view that the Fourteenth Amendment was not intended to

address private conduct and suggested that to uphold the VAWA would extend its reach 'beyond a point ever contemplated by the Supreme Court since the amendment's ratification.' Because there was no state action in Christy Brzonkala's case, the court held that it was not for the federal government to provide her with a remedy." (Neuwirth)

In 1999, Jessica Gonzales sought to divorce her violent husband in Castle Rock, Colorado. She had obtained a court order of protection against him. In spite of this, he showed up one day and took their 3 daughters. Throughout the day, Jessica repeatedly begged the police to arrest him, even ascertaining his location at one point to aid them in locating him. At 3 a.m., he showed up at the station, opened fire on the police, and shot himself. The police then found the bodies of the 3 girls in his pickup truck. Jessica sued the town of Castle Rock claiming a violation of the Due Process clause of the Fourteenth Amendment. The Due Process clause provides that no state shall "deprive any person of life, liberty or property, without due process of law." The District Court dismissed the claim that Gonzales had an enforceable right to protection under the restraining order. The Tenth Circuit Court of Appeals partially reversed the ruling saying that Jessica Gonzales had a protected property interest in the enforcement of the restraining order. The Supreme Court held that "we do not believe the provisions of Colorado law truly made enforcement of restraining orders necessary. A well-established tradition of police discretion has long coexisted with apparently mandatory arrest statutes." Justice Scalia, who wrote for the majority, derided the Tenth Circuit Court "for suggesting that a lack to a right of enforcement 'would render domestic abuse restraining orders completely valueless.'" He went on to say that the order was "hardly 'valueless,' even if the prospects of those sanctions ultimately failed to prevent Simon Gonzales from committing three murders and a suicide." How Justice Scalia defines the value of an unenforceable restraining order to a mother who had lost the three daughters whom she fought to protect is a mystery.

The law has improved from when women were considered chattel under the law, and had no legal right to their own earnings, their own children, or to enter an agreement. When a woman died, it was considered a "civil death" because husband and wife were one person and that person was the man. But women are still not treated equally under the law. Were the Equal Rights Amendment passed, the US would move slowly to a more equitable society.