

Subject State Equal Rights Amendment

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Overview

This bill proposes a state constitutional amendment that would prohibit denial of equality in the law on the basis of gender. The proposal is similar, but not identical, to the proposed Equal Rights Amendment to the United States Constitution, which was submitted to the states for ratification in 1972.

A key distinction in this proposed amendment compared to the proposed federal Equal Rights Amendment is that it would prohibit denial of equality under the law on the basis of “gender” rather than on the basis of “sex.” Although binding caselaw on the topic is unclear, in recent years the term “gender” has increasingly been used to refer to a person’s innate sense of their own identity, rather than their biological makeup or physical anatomy.

The Minnesota Human Rights Act already incorporates prohibitions on discrimination on the basis of sex and gender identity (as a component of “sexual orientation”) in employment, housing, public accommodations, public services, education, credit transactions, and business. This proposed amendment would supplement those statutory protections with a state constitutional guarantee and include all aspects of state law.

At least 24 states have adopted similar equal rights amendments into their state constitutions.

To be adopted, state constitutional amendments require approval by majority vote of both bodies of the legislature, followed by ratification by a majority of voters voting at a state general election. The bill would provide for submission of the proposed amendment to the voters at the November 2020 state general election. More information on the process for ratifying state constitutional amendments is included in the House Research publication *“State Constitutional Amendments,”* available online: <http://www.house.leg.state.mn.us/hrd/pubs/ss/ssconamend.pdf>.