

# LAW REVIEW 15028<sup>1</sup>

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## Why Aren't Young Women Required to Register for Selective Service?

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9.0--Miscellaneous

**Q: On May 9, 1997, I had fraternal twins, Samuel and Samantha. They will be turning 18 in a few weeks. I told them about the requirement to register for the Selective Service System when they turn 18. My son told me that he is aware of the requirement and that he will register on-line on his 18<sup>th</sup> birthday. My daughter told me that the registration requirement does not apply to her and that she does not even have the opportunity to register. Is that correct? Why are young women excluded from the requirement to register for Selective Service?**

**A:** The statutory sections providing for the Selective Service System (SSS) and for mandatory draft registration can be found in the Appendix of Title 50 of the United States Code, at sections 451 and following (50 U.S.C. App. 451 *et seq.*). The registration requirement is set forth in section 453(a), as follows:

- (a) Except as otherwise provided in this title, it shall be the duty of every *male* citizen of the United States, and every other *male* person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended, for so long as he continues to maintain a lawful nonimmigrant status in the United States.

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<sup>1</sup> We invite the reader's attention to [www.servicemembers-lawcenter.org](http://www.servicemembers-lawcenter.org). You will find 1,050 "Law Review" articles about laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997, and we add new articles each week.

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50 U.S.C. App. 453(a) (emphasis supplied).

As currently enacted, section 453(a) only requires *male* citizens to register for Selective Service. ROA Resolution 13-03<sup>3</sup> proposes that Congress should amend the Selective Service Act and impose the registration requirement on women as well as men. We propose that Congress should delete “male” in the two italicized places, as shown above.

In 1973, Congress abolished the draft and established the All-Volunteer Military (AVM). There was no draft registration, and the SSS went into a “deep standby” status. In early 1980, the Soviet Union invaded Afghanistan. As part of his response to this act of aggression, President Jimmy Carter proposed to reactivate the SSS and to reinstate the registration requirement. Congress considered expanding the registration requirement to include women as well as men, but the law Congress enacted only applies to men.

Several young men who objected to the requirement that they register filed suit against the SSS Director, contending that it was unconstitutional to require young men to register while exempting young women from this requirement. The United States District Court for the Eastern District of Pennsylvania agreed with their argument and enjoined the SSS Director from requiring them to register. The Supreme Court granted *certiorari* (discretionary review) and reversed, holding that it was not unconstitutional to require young men to register while exempting young women from this requirement. *Rostker v. Goldberg*, 453 U.S. 57 (1981).<sup>4</sup>

It is not unconstitutional to require young men to register while exempting young women from the requirement, but I agree with ROA Resolution 13-03 that persons of both genders should be required to register. The registration requirement is extraordinarily minimal, because the chance that anyone (male or female) will be drafted is quite remote. It would be necessary for Congress to amend the Selective Service Act to reinstate actual conscription. The point of the registration requirement is to expedite by a few days the time that would be required to reinstate an actual draft, in some most unlikely but not impossible dire emergency in the future.

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<sup>3</sup> This resolution was adopted on March 19, 2013. ROA resolutions are valid for three years, unless renewed. This resolution will likely be renewed next year.

<sup>4</sup> The citation means that you can find this Supreme Court decision in Volume 453 of *United States Reports*, and the case starts on page 57.