
HOUSE CONCURRENT RESOLUTION

URGING THE PRESIDENT OF THE UNITED STATES TO PUBLISH THE EQUAL RIGHTS AMENDMENT AS THE TWENTY-EIGHTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

1 WHEREAS, in 1972, the ninety-second Congress of the United
2 States, at its second session, in both houses, by a
3 constitutional majority of two-thirds, adopted the following
4 proposition to amend the Constitution of the United States of
5 America:

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7 "JOINT RESOLUTION RESOLVED BY THE HOUSE OF REPRESENTATIVES
8 AND SENATE OF THE UNITED STATES OF AMERICA IN CONGRESS
9 ASSEMBLED (TWO-THIRDS OF EACH HOUSE CONCURRING THEREIN),
10 That the following article is proposed as an amendment to
11 the Constitution of the United States, which shall be valid
12 to all intents and purposes as a part of the Constitution
13 when ratified by legislatures of three-fourths of the
14 several States within seven years from the date of its
15 submission by the Congress:

16
17 "ARTICLE _____

18
19 Section 1. Equality of rights under the law shall not
20 be denied or abridged by the United States or by any
21 State on account of sex.

22
23 Section 2. The Congress shall have the power to
24 enforce, by appropriate legislation, the provisions of
25 this article.

26
27 Section 3. This amendment shall take effect two years
28 after the date of ratification.""; and
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1 WHEREAS, Article V of the Constitution of the United States
2 sets forth a two-step amending procedure; and

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4 WHEREAS, the first step of the Article V amending procedure
5 is proposal of an amendment either by two-thirds vote of both
6 houses of Congress or by a convention called by application of
7 two-thirds of the states; and

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9 WHEREAS, the second and final step of the Article V
10 amending procedure is ratification of an amendment by three-
11 fourths of the states; and

12
13 WHEREAS, the Constitution of the United States does not
14 limit the time for states to ratify an amendment; and

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16 WHEREAS, the Constitution of the United States does not
17 grant Congress the unilateral authority to limit the time for
18 states to ratify amendments; and

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20 WHEREAS, a time limit on state ratification of amendments
21 is a substantive change to the Constitution of the United
22 States; and

23
24 WHEREAS, to have full force and effect, any substantive
25 change to the Constitution of the United States, such as a time
26 limit on ratification, must be within the text of an amendment,
27 where it can also be approved by states as part of each of the
28 two steps of the Article V amending procedure - a proposal step
29 and a ratification step; and

30
31 WHEREAS, in the proposal step for the Equal Rights
32 Amendment, the time limit on state ratification was only in the
33 preamble section of the resolution by Congress and not within
34 the text of the amendment presented to the states for state
35 approval; and

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37 WHEREAS, in the ratification step, the states ratified only
38 the text of the Equal Rights Amendment; and

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40 WHEREAS, a time limit was only approved by Congress in
41 1972, but not subsequently approved by the states and is thus
42 without force or effect; and



1
2 WHEREAS, in comparison, when in 1978 two-thirds of both
3 houses of Congress passed the District of Columbia Voting Rights
4 Amendment, a timeline was included within the text of the
5 amendment offered to states for ratification; and
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7 WHEREAS, the time limit for the District of Columbia Voting
8 Rights Amendment ended before completion of the second and final
9 step of ratification of the amendment by three-fourths of the
10 states; and
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12 WHEREAS, because the time limit was within the text of the
13 District of Columbia Voting Rights Amendment, that time limit
14 had full force and effect and the amendment expired in 1985; and
15

16 WHEREAS, in comparison, the text of the Twenty-first and
17 Twenty-second Amendments both include a timeline within the text
18 of each amendment, and such timelines were ratified by three-
19 fourths of the states within the agreed timeline; and
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21 WHEREAS, in 1789, by two-thirds vote of each house of the
22 first United States Congress, the so-called Madison Amendment
23 relating to compensation of members of Congress completed the
24 proposal step of Article V; and
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26 WHEREAS, approximately two hundred three years later the
27 Madison Amendment completed the ratification step of Article V
28 through ratification by three-fourths of the states; and
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30 WHEREAS, in 1992, having met the strict two-step
31 requirements of Article V, the Madison Amendment was published
32 by the Archivist of the United States during President George
33 H.W. Bush's administration as the Twenty-seventh Amendment to
34 the Constitution of the United States; and
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36 WHEREAS, following publication of the Madison Amendment,
37 Congress affirmed the Madison Amendment as the Twenty-seventh
38 Amendment of the Constitution of the United States; and
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40 WHEREAS, as of January 27, 2020, three-fourths of the
41 states have ratified the Equal Rights Amendment; and
42



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1 WHEREAS, unlike the District of Columbia Voting Rights
2 Amendment, the Equal Rights Amendment does not have a time limit
3 in its text where it would be of full force and effect; and
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5 WHEREAS, in contrast to the Madison Amendment, which took
6 two hundred three years to ratify, the Equal Rights Amendment
7 took a mere forty-eight years to ratify; and
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9 WHEREAS, the text of Article V of the Constitution of the
10 United States gives the states the power of ratification, not
11 rescission; and
12

13 WHEREAS, Samuel Johnson's dictionary of 1755 defines
14 "ratify" as "to confirm; to settle"; and
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16 WHEREAS, Bouvier's Law Dictionary of 1856, considered to be
17 the first American legal dictionary, states that a ratification
18 once done "cannot be revoked or recalled"; and
19

20 WHEREAS, James Madison wrote in a July 20, 1788, letter to
21 Alexander Hamilton that ratification is "in toto and for ever";
22 and
23

24 WHEREAS, the various attempts throughout history to rescind
25 the ratifications of the Constitution of the United States or
26 its amendments, including the Fourteenth, Fifteenth, and
27 Nineteenth Amendments, have never been honored; and
28

29 WHEREAS, the Equal Rights Amendment now meets the strict
30 requirements of Article V of the Constitution of the United
31 States and should be added as the Twenty-eighth Amendment; now,
32 therefore,
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34 BE IT RESOLVED by the House of Representatives of the
35 Thirty-second Legislature of the State of Hawaii, Regular
36 Session of 2023, the Senate concurring, that this body urges the
37 administration of President Joseph R. Biden, Jr., to publish
38 without delay the Equal Rights Amendment as the Twenty-eighth
39 Amendment to the Constitution of the United States; and
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41 BE IT FURTHER RESOLVED that this body urges the Congress of
42 the United States to pass a joint resolution affirming the Equal



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1 Rights Amendment as the Twenty-eighth Amendment to the
2 Constitution of the United States; and

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4 BE IT FURTHER RESOLVED that this body calls on other states
5 to join this action by passing the same or similar resolutions;
6 and

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8 BE IT FURTHER RESOLVED that certified copies of this
9 Concurrent Resolution be transmitted to the President of the
10 United States, Vice President of the United States, each member
11 of Hawaii's congressional delegation, and Archivist of the
12 United States.

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OFFERED BY:

Mark A. Kelihi

MAR 10 2023

