

Joint Resolution 1

(Senate Joint Resolution 1)

A Senate Joint Resolution concerning

Affirming the Federal Equal Rights Amendment

FOR the purpose of urging the Administration of President Joseph R. Biden to publish, without delay, the federal Equal Rights Amendment as the Twenty-eighth Amendment to the U.S. Constitution and urging the U.S. Congress to pass a joint resolution affirming the Equal Rights Amendment as the Twenty-eighth Amendment; and generally relating to the federal Equal Rights Amendment.

WHEREAS, In 1972, the 92nd Congress of the United States, at its second session, in both houses, by a constitutional majority of two-thirds, adopted the following proposition to amend the U.S. Constitution:

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

ARTICLE _____

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

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

Section 3. This amendment shall take effect two years after the date of ratification.”; and

WHEREAS, Article V of the U.S. Constitution provides a two-step procedure for the adoption of an amendment; and

WHEREAS, The first requirement for the adoption of an amendment under Article V is the proposal of an amendment either by a two-thirds vote of both houses of Congress, or by a convention called by application of two-thirds of the states; and

WHEREAS, The second requirement for the adoption of an amendment under Article V is ratification of an amendment by three-fourths of the states; and

WHEREAS, The U.S. Constitution does not limit the time for states to ratify an amendment and does not grant Congress the authority to unilaterally limit the time by which an amendment may be ratified; and

WHEREAS, A time limitation for the ratification of amendments by the states would be a substantive change to the U.S. Constitution; and

WHEREAS, To have full force and effect, a substantive change to the U.S. Constitution must be within the text of an amendment so that it may be ratified by the states as part of the requirements of Article V; and

WHEREAS, The time limitation on state ratifications was in the preamble section of the resolution by Congress and not within the text of the amendment presented to states for state approval; and

WHEREAS, Because of the placement of the time limitation, the states ratified the text of the Equal Rights Amendment but did not ratify the time limit by Congress; and

WHEREAS, A time limit was approved in the Equal Rights Amendment by Congress in 1972, but has not been subsequently approved by the states and thus is without force or effect; and

WHEREAS, In comparison, in 1978, Congress passed the District of Columbia Voting Rights Amendment, which included a time limitation within the text of the Amendment offered to the states for ratification; and

WHEREAS, The time limitation for the District of Columbia Voting Rights Amendment ended before ratification of the amendment by three-fourths of the states; and

WHEREAS, Because the time limit was within the text of the District of Columbia Voting Rights Amendment, the time limit had full force and effect and the amendment expired in 1985; and

WHEREAS, In comparison, the Twenty-first Amendment and the Twenty-second Amendment include time limitations within the text of each amendment, and the timelines were ratified by three-fourths of the states in accordance with the text of the amendments; and

WHEREAS, In 1789, the First Congress proposed, in accordance with Article V, the Madison Amendment relating to compensation of members of Congress; and

WHEREAS, Over 202 years later, the Madison Amendment was ratified by three-fourths of the states; and

WHEREAS, In 1992, having finally met the requirements of Article V, the Madison Amendment was published as the 27th Amendment to the U.S. Constitution by the

Archivist of the United States during the Administration of President George H.W. Bush; and

WHEREAS, Following publication of the Madison Amendment by the Archivist of the United States, Congress affirmed the Madison Amendment as the Twenty-seventh Amendment to the U.S. Constitution; and

WHEREAS, As of January 27, 2020, three-fourths of the states have ratified the Equal Rights Amendment; and

WHEREAS, Unlike the District of Columbia Voting Rights Amendment, the Equal Rights Amendment does not contain a time limit in its text where it would be of full force and effect; and

WHEREAS, In contrast to the Madison Amendment, which took 203 years to ratify, the Equal Rights Amendment took only 48 years to ratify; and

WHEREAS, The text of Article V of the U.S. Constitution grants the states the power of ratification, not rescission; and

WHEREAS, Samuel Johnson's dictionary of 1755 defines "ratify" as "to confirm; to settle"; and

WHEREAS, Bouvier's Law Dictionary of 1856, considered to be the first American legal dictionary, states that a ratification once done, "cannot be revoked or recalled"; and

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

WHEREAS, Various attempts to rescind ratifications of provisions of the U.S. Constitution or its amendments, including the Fourteenth, Fifteenth, and Nineteenth Amendments, have never been honored; and

WHEREAS, The General Assembly of Maryland set a precedent for this resolution in 1961 by passing House Joint Resolution 14 urging Congress to pass the Equal Rights Amendment; and

WHEREAS, Maryland was one of the early states to ratify the Equal Rights Amendment in May 1972, two months after Congress proposed it for ratification; and

WHEREAS, Maryland adopted the Maryland Equal Rights Amendment to the Maryland Constitution in 1972; and

WHEREAS, The Maryland Equal Rights Amendment is only effective to the degree that it does not conflict with federal law; and

WHEREAS, The Maryland Attorney General filed an amicus brief in 2022 in support of a lawsuit brought by three ratifying states to require the Archivist of the United States to certify and publish the Equal Rights Amendment as an amendment to the U.S. Constitution; and

WHEREAS, Over several decades, the General Assembly of Maryland has passed laws and created protections attempting to guarantee equal rights under the law for all Marylanders, regardless of race, color, ethnicity, national origin, age, disability, creed, religion, or sex – which includes legal equality and protection from discrimination on the basis of sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and decisions regarding reproductive healthcare or other aspects of an individual's bodily autonomy; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That it is the opinion of the General Assembly of Maryland that the Equal Rights Amendment meets the requirements of Article V of the U.S. Constitution and should be recognized as the 28th Amendment; and be it further

RESOLVED, That the General Assembly of Maryland urges the Administration of President Joseph R. Biden to publish, without delay, the Equal Rights Amendment as the 28th Amendment to the U.S. Constitution; and be it further

RESOLVED, That the General Assembly of Maryland urges the Congress of the United States to pass a joint resolution affirming the Equal Rights Amendment as the 28th Amendment to the U.S. Constitution; and be it further

RESOLVED, That the General Assembly of Maryland calls on other states to join in this action by passing similar resolutions; and be it further

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the Honorable Joseph R. Biden, President of the United States of America, 1600 Pennsylvania Avenue NW, Washington, D.C. 20500; the Honorable Kamala Harris, Vice President of the United States, President of the United States Senate, Senate Office Building, Washington, D.C. 20510; the Honorable Colleen Joy Shogan, Archivist of the United States, National Archives and Records Administration, 700 Pennsylvania Avenue NW, Washington, D.C. 20408; the Maryland Congressional Delegation; and the presiding officer of each House of the legislature of each state of the United States, with the request that it be circulated among leadership of the legislative branch of the state governments.

Signed by the President, the Speaker, and the Governor, May 9, 2024.