THE EQUAL RIGHTS AMENDMENT

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.

The Equal Rights Amendment (ERA), written by suffragist leader Alice Paul, was first proposed and introduced in Congress in 1923. It was passed by Congress in 1972 and sent to the states with a seven-year deadline for ratification. Although Congress extended the deadline to June 30, 1982, the ERA received only 35 of the necessary 38 state ratifications. The amendment has been reintroduced in every session of Congress since that time. The ERA resolutions in the Senate and the House of Representatives must be passed by a two-thirds majority in each chamber and then sent to the states for ratification by legislatures in three-quarters (38) of the states.

An alternative strategy for ERA ratification, the “three-state strategy,” was developed after the 27th (“Madison”) Amendment, originally passed by Congress in 1789, was added to the Constitution in 1992. Some ERA supporters proposed that since a 203-year ratification period was acceptable for the Madison Amendment, the ERA’s ratification votes remain “sufficiently contemporaneous,” as required by the Supreme Court’s interpretation of the Constitution’s amendment process. In extending the original deadline, Congress demonstrated that it can alter the ERA’s time limit, thereby providing an opportunity to affirm state ratifications occurring after 1982 and keep alive the 35 state ratifications obtained from 1972-1977. Precedent also shows that votes to reverse (rescind) state ratifications are not valid. The legal analysis for this argument is presented in “The Equal Rights Amendment: Why the ERA Remains Legally Viable and Properly Before the States” (Allison Held et al., William & Mary Journal of Women and the Law, Spring 1997). After analyzing this article, the Congressional Research Service concluded that the Madison Amendment does in fact have implications for the three-state strategy, and that the question is more a political than a constitutional one.

Since 1995, ERA ratification bills to advance the three-state strategy have been introduced in 8 of the 15 “unratified” states (Arizona, Arkansas, Florida, Illinois, Mississippi, Missouri, Oklahoma, and Virginia). The Illinois House in 2003 and the Virginia Senate in 2011 and 2012 passed ERA ratification bills, but the other houses of those legislatures did not vote on the issue. The remaining unratified states are Alabama, Georgia, Louisiana, Nevada, North Carolina, South Carolina, and Utah.

An April 2012 poll for Daily Kos/SEIU found that 91% of Americans believe men and women should have equal rights affirmed by the Constitution. A July 2001 Opinion Research Corporation survey showed that 96% of U.S. adults believe that male and female citizens should have equal rights, and 88% believe that the U.S. Constitution should affirm that these rights are equal. However, nearly three-quarters of the respondents – 72% – mistakenly believed that the Constitution already includes such a guarantee.

“The Equal Rights Amendment: Unfinished Business for the Constitution” is a 1998 documentary which provides the history of the ERA in the context of over two centuries of struggle for women’s rights in the United States. The 17-minute educational DVD, which includes an information sheet/discussion guide, can be ordered through the Alice Paul Institute (856-231-1885, info@alicepaul.org) or www.equalrightsamendment.org

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