

June 06, 2023

MOTION BY SUPERVISOR LINDSEY P. HORVATH

Support for the Ratification, Certification, and Publication of the Equal Rights

Amendment

The Equal Rights Amendment (“ERA”) is an addition to the US Constitution that prohibits discrimination on the basis of sex and provides legal equality for the sexes. The Equal Rights Amendment reads, “Equality of right under the law shall not be denied or abridged by the United States or any State on account of sex.” The ERA was first proposed by the National Women’s political party in 1923 by founder and feminist Alice Paul. More than four decades later it was introduced to Congress under the leadership of U.S. Representative Bella Abzug, and feminists Betty Friedan and Gloria Steinem. On October 12, 1971, the ERA was passed by the House of Representatives and on March 22, 1972, the ERA was passed by the Senate with an overwhelming 84-8 vote. The ERA was then sent to the states for ratification, with a requirement that three-fourths of the states (38 of 50 states) ratify the amendment.

There were thirty-five states, including California, that ratified the ERA by 1975, but the mid-1970’s brought an onslaught of backlash against feminism, undoing the decades-long fight to build support for the Equal Rights Amendment. Because the Equal Rights Amendment was not fully ratified in the 1970’s, extraordinary progress that was made for women since then (through legislation and case law) has the potential to be ignored, weakened, or reversed, as Congress

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can amend or repeal legislation advancing equality with a simple majority vote, presidential administrations can weakly enforce these laws, and the United States Supreme Court can continue to use intermediate scrutiny when reviewing cases concerning gender. At this time, gender equality, excluding the right to vote, is not protected by the U.S. Constitution.

In 1994, activists and politicians began mobilizing the passage of ERA ratification bills, leading to the first “Three-State Strategy” bill introduced in Congress. The goal of the bill was to pave the way for three additional states to ratify the amendment, thereby reaching the necessary 38 states. In 2017, Nevada became the first state to ratify the ERA in 40 years, bringing the total to 36 states. Illinois followed in 2018, bringing the total to 37 states, one shy of the necessary 38. Lastly, on January 27, 2020, Virginia passed a bill to ratify the ERA making it the 38th and final state needed to enshrine the amendment in the US Constitution.

The ERA states that the amendment will take effect two years after the last constitutionally necessary state ratification occurs, however, the Archivist of the United States has not certified the amendment. The Archivist of the United States performs a statutory and ministerial role with respect to certifying the ratification of amendments to the United States Constitution and should act to certify the amendment.

2023 marks the 100th anniversary of the first version of the Equal Rights Amendment being introduced by Congress, however, this important amendment is still not within the Constitution. At a time when women, girls, and gender-expansive people across the country are experiencing declining access to health, wealth, and opportunity, and there are increasing

incidences of poverty and violence, the ERA would provide a fundamental legal remedy against sex discrimination. Specifically, the ERA would clarify the legal status of sex discrimination for the courts, where decisions still deal inconsistently with such claims.

This motion memorializes Los Angeles County's support for the Equal Rights Amendment, and current legislation advancing its ratification, which will advance gender justice for women, girls, and gender-expansive individuals. Specifically, the ERA has been ratified by two-thirds of the states and should be published as the 28th amendment of the United States Constitution.

I, THEREFORE, MOVE that the Board of Supervisors:

1. Support the ratification, certification, and publication of the Equal Rights Amendment as the 28th Amendment of the United States Constitution; and
2. Direct the Chief Executive Office's Legislative Affairs and Intergovernmental Relations branch (CEO-LAIR) to send five-signature letters to the authors of the following bills, house and senate leadership, and the president and vice-president, supporting:
 - a. House Joint Resolution 25, by Congresswoman Aryanna Pressley, which affirms the ratification of the Equal Rights Amendment, which is a bi-partisan bill with 202 co-authors;
 - b. Senate Joint Resolution 4, by Senator Benjamin L. Cardin, which Majority Leader Schumer has filed for reconsideration and would provide for certification of the Equal Rights Amendment; and
 - c. Forth coming legislation by Congresswoman Cori Bush that would direct

immediate adoption and publication of the Equal Rights Amendment. Support shall only be provided if the text of the bill is in alignment with the intent of this motion, to support the adoption and publication of the Equal Rights Amendment.

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