

118TH CONGRESS  
1ST SESSION

# S. J. RES. 39

Expressing the sense of Congress that the article of amendment commonly known as the “Equal Rights Amendment” has been validly ratified and is enforceable as the 28th Amendment to the Constitution of the United States, and the Archivist of the United States must certify and publish the Equal Rights Amendment as the 28th Amendment without delay.

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IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mrs. GILLIBRAND (for herself, Mr. CARDIN, Mr. PADILLA, Mr. SANDERS, Mrs. MURRAY, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. DUCKWORTH, Mrs. FEINSTEIN, Mr. HEINRICH, Ms. HIRONO, Mr. MARKEY, Mr. MERKLEY, Mr. VAN HOLLEN, Mr. WELCH, Mr. WYDEN, Mr. KAINE, Mr. MENENDEZ, and Ms. WARREN) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

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## JOINT RESOLUTION

Expressing the sense of Congress that the article of amendment commonly known as the “Equal Rights Amendment” has been validly ratified and is enforceable as the 28th Amendment to the Constitution of the United States, and the Archivist of the United States must certify and publish the Equal Rights Amendment as the 28th Amendment without delay.

Whereas the Equal Rights Amendment provides an explicit constitutional basis for combating sex discrimination and

provides Congress with authority to enact stronger laws to ensure sex equality by adding the following language to the Constitution:

“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.”;

Whereas article V of the Constitution provides two requirements for amending the Constitution, including—

- (1) passage in both Houses of Congress by two-thirds of each body; and
- (2) ratification by three-fourths of the States;

Whereas the House of Representatives passed the Equal Rights Amendment on October 12, 1971, with a vote of 354 yeas and 24 nays (with 51 not voting), the Senate passed the Equal Rights Amendment on March 22, 1972, by a vote of 84 yeas and 8 nays (with 7 not voting), and the amendment was sent to the States for ratification;

Whereas three-fourths of the States have ratified the Equal Rights Amendment, the final State necessary, Virginia, having ratified on January 27, 2020, including—

- (1) Hawaii (March 22, 1972);
- (2) New Hampshire (March 23, 1972);
- (3) Delaware (March 23, 1972);
- (4) Iowa (March 24, 1972);
- (5) Idaho (March 24, 1972);
- (6) Kansas (March 28, 1972);

- (7) Nebraska (March 29, 1972);
- (8) Texas (March 30, 1972);
- (9) Tennessee (April 4, 1972);
- (10) Alaska (April 5, 1972);
- (11) Rhode Island (April 14, 1972);
- (12) New Jersey (April 17, 1972);
- (13) Colorado (April 21, 1972);
- (14) West Virginia (April 22, 1972);
- (15) Wisconsin (April 26, 1972);
- (16) New York (May 18, 1972);
- (17) Michigan (May 22, 1972);
- (18) Maryland (May 26, 1972);
- (19) Massachusetts (June 21, 1972);
- (20) Kentucky (June 27, 1972);
- (21) Pennsylvania (September 27, 1972);
- (22) California (November 13, 1972);
- (23) Wyoming (January 26, 1973);
- (24) South Dakota (February 5, 1973);
- (25) Oregon (February 8, 1973);
- (26) Minnesota (February 8, 1973);
- (27) New Mexico (February 28, 1973);
- (28) Vermont (March 1, 1973);
- (29) Connecticut (March 15, 1973);
- (30) Washington (March 22, 1973);
- (31) Maine (January 18, 1974);
- (32) Montana (January 25, 1974);
- (33) Ohio (February 7, 1974);
- (34) North Dakota (February 3, 1975);
- (35) Indiana (January 18, 1977);
- (36) Nevada (March 22, 2017);
- (37) Illinois (May 30, 2018); and
- (38) Virginia (January 27, 2020);

Whereas article V of the Constitution does not impose a deadline for the ratification of an article of amendment;

Whereas the 27th Amendment to the Constitution was approved by two-thirds of each House of Congress and 203 years later it was finally ratified by three-fourths of the States;

Whereas the 27th Amendment to the Constitution was certified and published by the Administration of George H. W. Bush as part of the Constitution;

Whereas, following publication of the 27th Amendment, Congress moved to affirm it as part of the Constitution;

Whereas the 14th Amendment to the Constitution was certified and published as part of the Constitution in 1868 despite 2 States purporting to rescind their ratifications;

Whereas the States that purported to “rescind” their ratifications of the 14th Amendment (Ohio and New Jersey) were counted among the ratifying States;

Whereas Tennessee attempted to rescind its ratification of the 19th Amendment to the Constitution but its attempt was ignored and the 19th Amendment was certified and published on August 26, 1920; and

Whereas the Archivist of the United States, once a proposed amendment has been adopted according to the provisions of the Constitution, has a statutory duty under section 106b of title 1, United States Code, to certify that the proposed amendment has become valid, to all intents and purposes, as a part of the Constitution and publish the proposed amendment in the Federal Register: Now, therefore, be it

1       *Resolved by the Senate and House of Representatives*  
2 *of the United States of America in Congress assembled,*  
3 That it is the sense of Congress that—

4           (1) the article of amendment to the Constitu-  
5 tion of the United States commonly known as the  
6 “Equal Rights Amendment” has been duly proposed  
7 by two-thirds of each House of the Congress and  
8 ratified by more than three-fourths of the several  
9 States, and thus has met the requirements of the  
10 Constitution under article V of the Constitution and  
11 is enforceable as the 28th Amendment to the Con-  
12 stitution, effective January 27, 2020; and

13           (2) the current Archivist of the United States  
14 should proceed to fulfill their ministerial duty under  
15 section 106b of title 1, United States Code, to cer-  
16 tify and publish the 28th Amendment to the Con-  
17 stitution, without delay.

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