



# Attorney General Raoul Files Brief In Lawsuit To Ensure Equal Rights Amendment Is Recognized As 28th Amendment

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Chicago – Attorney General Kwame Raoul, along with Nevada Attorney General Aaron Ford and Virginia Attorney General Mark Herring, today filed a brief in their lawsuit to ensure the federal government recognizes that the Equal Rights Amendment (ERA) is the 28th Amendment to the Constitution. The ERA guarantees equal rights for all Americans regardless of their sex.

Raoul and the attorneys general filed the [opposition brief](#) today in the U.S. District Court for the District of Columbia in response to the motion to dismiss filed by the U.S. Department of Justice (DOJ). In the brief, Raoul and the attorneys general refute the DOJ's claims that it should have a role in deciding whether adopted amendments should be certified, and that the archivist of the United States does not have to publish the amendment.

“A single unelected official cannot be allowed to stand in the way of an amendment that has been fully ratified in accordance with the constitution,” Raoul said. “Equal rights are not contingent upon a person’s gender or sex, and it is past time that women across the country have the constitutional equality to which they are entitled.”

“For more than four months, the Trump Administration has stalled the courts from enshrining equal rights for women nationwide,” Ford said. “His Administration is signaling to the women of America that, after 231 years, they must wait even longer for the equal treatment under the Constitution. To every woman in Nevada and across America fighting for equal rights, I’m proud to fight alongside you. And to every man who supports your voice and your fight, I commend you.”

“Donald Trump and his administration have clearly demonstrated that they do not want to guarantee equality for the women in this country,” Herring said. “Forcing women to wait even longer for equal rights under the Constitution is just plain shameful. Time and again, this movement has shown that it will not let anything stand in its way and I am proud to fight alongside it to ensure women’s equality is enshrined in the U.S. Constitution.”

In the brief, Raoul and the coalition argue that states have a special constitutional role in amending the federal constitution. While the judicial branch typically is not involved in that process, provisions are available for an unusual circumstance like this, where a judicial order is needed to stop an executive official from interfering with the federal constitutional amendment process. Additionally, Raoul and the attorneys general point out that no fully-adopted amendment has been ignored before due to a deadline. The attorneys general also note that many amendments have deadlines in their text, but the ERA does not.

In January, Raoul and the attorneys general filed their complaint asking the court to direct the archivist to perform his statutory duty to certify that the ERA, which prohibits discrimination on the basis of sex, is the 28th Amendment to the U.S. Constitution. In the complaint, the attorneys general explain that under the text of the Constitution, an amendment proposed by Congress automatically becomes a part of the Constitution as soon as it is ratified by the legislatures of three-fourths of the states. The complaint further asserts that the U.S. archivist does not have any discretionary authority over which amendments are added to the Constitution. As a result, the archivist is legally obligated to recognize that the ERA has become part of the Constitution.

“The ERA Coalition, comprised of more than 100 organizations across the country representing millions of girls and women, commends the Attorneys General of Illinois, Nevada, and Virginia for their efforts to bring about equal rights for all,” Jessica Neuwirth and Carol Jenkins, Co-Presidents of the ERA Coalition said. “We are proud to stand with them today with the strength of our members who have worked so hard and for so long to meet the requirements for placing the 28th Amendment in the Constitution. Now is the time to take a stand for equality.”

The ERA states that “quality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.” Though an equal rights amendment was considered as early as 1923, Congress did not propose the ERA to the states until 1972, when it passed with broad, bipartisan support. By 1977, 35 states had ratified the ERA. Illinois ratified the ERA in 2018. When combined with Nevada’s ratification in 2017 and Virginia’s ratification in January 2020, a total of 38 states have now ratified the ERA, passing the constitutional threshold required for the ERA to become the 28th Amendment. With the ERA, the U.S. Constitution provides an explicit guarantee of

protection against discrimination based on sex. These protections are forever enshrined in the Constitution.