

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

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Chicago – Attorney General Kwame Raoul, along with Virginia Attorney General Mark R. Herring and Nevada Attorney General Aaron Ford, today [moved for summary judgment](#) in their lawsuit seeking to ensure that the Equal Rights Amendment (ERA) is recognized as the 28th Amendment to the U.S. Constitution following Virginia’s ratification in January 2020. In a motion for summary judgment filed in the U.S. District Court for the District of Columbia, Raoul and the attorneys general argue that all of the constitutional requirements for the ERA have been met.

“As we celebrate the 100th anniversary of the 19th Amendment’s ratification this week, we must also recognize there is still work to be done to ensure equal rights for all because the Department of Justice and a handful of states continue to claim – wrongly – that the Equal Rights Amendment is still not part of the U.S. Constitution,” Raoul said. “I filed this lawsuit because the Equal Rights Amendment has been ratified and must be

certified as part of the Constitution. And I filed this lawsuit because it is past time for our Constitution to explicitly prohibit discrimination based on sex.”

Raoul and the attorneys general argue that federal law requires the archivist to publish and certify the ERA as valid now that the constitutionally-required number of states have ratified it. The attorneys general also point out that the ERA has met all requirements contained in Article V of the Constitution. Additionally, they explain that a timeframe in the congressional resolution did not prevent the plaintiff states from ratifying the ERA.

In their motion for summary judgment, Raoul, Herring and Ford are asking the court to:

- Declare that the Equal Rights Amendment is valid and part of the Constitution.
- Declare that the archivist’s refusal to publish and certify the Equal Rights Amendment violates federal law.
- Order the archivist to execute his duties and publish the Equal Rights Amendment as part of the Constitution.

Raoul, Herring and Ford also [filed a brief opposing the motion for summary judgment](#) filed by intervening states Alabama, Louisiana, Nebraska, South Dakota and Tennessee. The intervening states have argued states have the ability to reverse their ratification of the ERA. Three of the five intervening states have purported to rescind their approval of the ERA; while the legislatures in Louisiana and Alabama never ratified the ERA at all. Raoul and the attorneys general state that these rescissions were not valid and do not affect the ERA being added to the U.S. Constitution. The attorneys general point out that state ratification is a one-time event, and nothing in the Constitution allows for an amendment that has been ratified to be rescinded. The attorneys general also call attention to the fact that rescission of an amendment has never before been allowed, and doing so would unnecessarily call into question other amendments.

Raoul and the attorneys general additionally explain that the intervening states’ claim that the ERA has expired is null because nothing in Article V places a deadline on states to act on proposed Constitutional amendments. Indeed, the most recent amendment to be added to the Constitution was ratified 203 years after it was initially proposed.

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.

Attorney General Raoul, with Attorneys General Herring and Ford, [filed a lawsuit in January](#) to ensure that the Equal Rights amendment is acknowledged as the 28th

Amendment, enshrining equal rights for women. In June, Attorney General Raoul and his colleagues [filed a brief](#) opposing a Department of Justice motion to dismiss the lawsuit. Approximately 108 business groups, 95 advocacy groups and bar associations, and 21 states and the District of Columbia have filed amicus briefs supporting Raoul's lawsuit. With the ERA, the U.S. Constitution provides an explicit guarantee of protection against discrimination based on sex.