

Attorney General Raoul Files Notice Of Appeal To Ensure Equal Rights Amendment Is Recognized As 28th Amendment

May 3 2021 3:29 PM



CHICAGO – Attorney General Kwame Raoul today joined Nevada Attorney General Aaron Ford and Virginia Attorney General Mark Herring in filing a notice of appeal in their lawsuit to ensure the federal government acknowledges the Equal Rights Amendment (ERA) as 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 notice of appeal today in the U.S. District Court for the District of Columbia after a judge dismissed their lawsuit in March. Raoul and the attorneys general will argue that the district court judge overlooked the role that Article V of the U.S. Constitution gives states to amend the Constitution and gave too much weight to a deadline that Congress attached to the amendment.

“It is unacceptable there is any discussion about whether equal rights for all are protected under the Constitution, especially since the Equal Rights Amendment has been ratified in accordance with the Constitution,” Raoul said. “It is past time that women across the country have the constitutional equality that they deserve and are entitled to, which is why I am committed to fighting to ensure that the Equal Rights Amendment is recognized as the 28th Amendment to the Constitution.”

“The United States cannot continue forcing women to wait to be recognized as equal under this country’s founding document,” Herring said. “Throughout the years, efforts to have the Equal Rights Amendment added to the Constitution have been met with many impediments, but every single time this movement has overcome those hurdles and come out the other side stronger than ever. To those who have sent a clear message that they do not believe in women’s equality – it’s time that you move into the 21st century. I will continue this fight for as long as it takes to finally have the Equal Rights Amendment recognized as the 28th amendment and added to the Constitution. It has been a privilege to take up this mantle and stand alongside those who have dedicated their lives to ensuring women’s equality in this country and I won’t let up until we are successful.”

“Equality is and should be for both men and women,” Ford said. “How much longer should the women in this country wait to be afforded equal protection under this country's founding documents? As I've always promised, my office will use every legal tool at its disposal to fight for women's rights. We will now weigh our options with this litigation moving forward.”

In March, the district court ruled that Illinois, Nevada and Virginia did not have standing to sue because they had not been injured by the U.S. archivist’s failure to certify and publish the Equal Rights Amendment. The court further held that even if the states had standing, a Congressional deadline passed before those three states ratified the amendment. The U.S. House of Representatives passed a resolution to remove the

deadline in March, and the U.S. Senate is also considering a bill to remove that timeframe.

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.

Attorney General Raoul, with Attorneys General Ford and Herring, filed a lawsuit in 2020 to ensure that the Equal Rights Amendment is acknowledged as the 28th Amendment, enshrining equal rights for women in the Constitution. 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.