

Senate Vote on Resolution to Ratify the Equal Rights Amendment Fails

Following the Senate vote, a motion to reconsider was introduced, which could lead to a second vote.

WASHINGTON, D.C., UNITED STATES, April 27, 2023 /EINPresswire.com/ -- On Thursday, S.J. Res 4

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*Antonia Kirkland, Global Lead
for Legal Equality, Equality
Now*

failed to pass the United States Senate although the majority of senators (51-47) voted in favor of recognizing the Equal Rights Amendment (ERA) as “valid to all intents and purposes as part of the Constitution.” The amendment, which was first proposed a century ago, guarantees equality of rights under the law for all American citizens regardless of sex.

Many Americans believe that equal rights for men and women are guaranteed in the Constitution, but this is not the case. Although Section 1 of the 14th Amendment to the Constitution theoretically provides every person “equal protection of the laws,” the Constitution does not explicitly

prohibit discrimination on the basis of sex.

Of the 193 countries that are members of the United Nations, [85%](#) have constitutions that prohibit discrimination on the basis of sex and or gender. The US remains one of the few nations that does not - alongside other nations such as Saudi Arabia - and this is in violation of international law.

When discrimination based on sex is not explicitly prohibited under the law, it leaves women and girls vulnerable to various forms of gender-based discrimination in areas such as employment, education, and reproductive healthcare.

The ERA would give explicit protection against sex discrimination for all, making it easier to challenge discriminatory laws and practices against women and girls. It would set the standard that gender-based violence and discrimination are unconstitutional and provide a strong and unambiguous legal basis for women's and gender-diverse peoples' rights.

The recent vote in the Senate comes after years of advocacy and activism from women's rights organizations and lawmakers on behalf of the ERA since it was first introduced in Congress in 1923 by two Republican Senators. In March 1972, the amendment passed both the House and the Senate with bipartisan support. It was then introduced to the states for ratification.

Three-quarters of states, 38 in total, were required to ratify the proposed amendment before 1979, an arbitrary deadline put in place by Congress but not required by the Constitution.

This deadline was later extended from 1979 to 1982, but momentum stalled with only 35 of the 38 required states ratifying within the timeframe. In

recent years backing for the ERA has been growing. In 2017, Nevada voted to ratify the amendment, followed by Illinois in 2018, and in 2020, supporters celebrated when the 38-state threshold was reached with Virginia voting in favor.

Supporters of the ERA argue that it is necessary to ensure gender equality is enshrined in the Constitution as it will provide permanent, irreversible protections for women and girls on issues such as [equal pay](#), [child marriage](#), and [sexual violence](#).

"It is very disappointing that not enough Senators felt that it is vital and necessary to uphold the equal rights of all citizens of the United States, and denied the validity of the ERA today.

"The ERA is not dead and should be recognized as the 28th amendment as it has met all the requirements of Article 5 of the Constitution. This will not be the last word on the ERA," said Antonia Kirkland, Global Lead for Legal Equality & Access to Justice at Equality Now. While there are federal and state statutes and policies that do protect against some sex or gender-based discrimination, they are not a substitute for a constitutional amendment. The ERA would make sex a "suspect classification" like race, religion, and national origin and require cases of sex discrimination to undergo "strict scrutiny."

Strict scrutiny is the highest level of justification in the US legal system and would recognize and raise sex equality to the status of a fundamental right and categorize sex as a "protected class," making it more difficult for companies, employers, and other entities that discriminate to get



Equal Rights Activists gather during an ERA rally outside of the Supreme Court

away with it. This could pertain to everything from unequal or lack of parental leave to pregnancy discrimination to lack of coverage of birth control.

Currently, laws that protect women, girls, and gender minorities from discrimination are vulnerable to administrations and politicians bent on undermining gender equality. This has been shown with the bans on transgender Americans serving in the armed forces, only recently repealed, and current state-led anti-reproductive health legislation.

Equality Now has worked as a member of the ERA Coalition to push for the passing of S. J. Res. 4, a joint resolution removing the deadline for the ratification of the ERA, and recognizing that the ERA is “valid to all intents and purposes as part of the Constitution”.

Fortunately, a motion to reconsider has been introduced so that the resolution can be brought back to the Senate floor at a later time. The companion resolution on the ERA, H. J. Res. 25, will hopefully be taken up by the House of Representatives soon thereafter.

As human rights activists everywhere await the next steps for the future of the ERA, Senator Durbin of Illinois, during his address at the Senate debate, urged his constituents to clear the way to enshrine the ERA in the Constitution.

“Without ERA protections, even basic rights like reproduction are on the chopping block: protection against discrimination in the workplace, in the classroom, and even in the courtroom - unless women's rights are explicitly protected under the Constitution there's nothing stopping [people] or the court from ripping them away, that's why Congress must restore and protect women's rights in all facets of life.”

ENDS

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About Equality Now: Founded in 1992, Equality Now is an international human rights organization that works to protect and promote the rights of all women and girls around the world. Our campaigns are centered on four program areas: Legal Equality, End Sexual Violence, End Harmful Practices, and End Sexual Exploitation, with a cross-cutting focus on the unique needs of adolescent girls. Equality Now combines grassroots activism with international, regional, and national legal advocacy to achieve legal and systemic change to benefit all women and girls and works to ensure that governments enact and enforce laws and policies that uphold their rights.

For more details go to www.equalitynow.org, Facebook @equalitynoworg, LinkedIn Equality Now, and Twitter @equalitynow.

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