

No. 21-5096

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**In the United States Court of Appeals  
for the District of Columbia Circuit**

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COMMONWEALTH OF VIRGINIA, STATE OF ILLINOIS,  
and STATE OF NEVADA,

Plaintiffs-Appellants,

v.

DAVID S. FERRIERO,

Defendant-Appellee,

v.

ALABAMA ET AL.,

Intervenor-Appellees.

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On Appeal from the U.S. District Court for the District of Columbia,  
No. 1:20-cv-242-RC (Hon. Rudolph Contreras, presiding)

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**AMICUS CURIAE BRIEF OF THE ERA COALITION  
AND ADVOCATES FOR EQUALITY AND WOMEN'S RIGHTS  
IN SUPPORT OF REVERSAL**

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## CERTIFICATE OF COUNSEL

### A. Parties and *Amici Curiae*

To counsel's knowledge, except for the *amici curiae* listed below, all parties and intervenors appearing before the district court and in this Court are listed in the Certificate as to Parties, Rulings, and Related Cases filed by the Commonwealth of Virginia, State of Illinois, and State of Nevada as Appellants on June 7, 2021. The *amici* represented in this brief are as follows:

Alice Paul Institute  
American Association of University Women  
American Medical Women's Association  
Association of Flight Attendants-CWA  
Brooklyn for Reproductive and Gender Equity  
The Black Women's Roundtable  
The Dolores Huerta Foundation  
The Domestic Violence Legal Empowerment and Appeals Project  
Downtown Women for Change  
Equality Utah  
ERA Coalition  
ERA Minnesota  
ERA-NC Alliance  
ERA Task Force AZ  
Feminist Majority Foundation  
Fund for Women's Equality  
GLBTQ Legal Advocates & Defenders  
Hadassah, the Women's Zionist Organization of America, Inc.  
Justice Revival  
League of Women Voters of the United States  
Legal Momentum  
The Loretto Feminist Network  
Michigan Federation of Business and Professional Women's Clubs,  
Inc.

Michigan ERAmerica  
Mormons for ERA  
National Association of Social Workers  
National Association of Women Lawyers  
National Council of Jewish Women, Inc.  
National Council of Negro Women, Inc.  
National Immigrant Women's Advocacy Project, Inc.  
National Organization for Women  
National Women's Political Caucus  
National Women's Political Caucus Foundation  
NETWORK Lobby for Catholic Social Justice  
Oklahoma Women's Coalition  
Project 28 MO  
Service Women's Action Network  
Shattering Glass  
Sisters of Loretto - Loretto Community  
Sisters of St. Joseph of Carondelet  
South Carolina Equal Means ERA  
U.S. Women's Caucus at the UN  
VA NOW, Inc.  
VoteEqualityUS  
Voto Latino  
Women Employed  
Women's Equality Coalition  
Women's Law Project  
Women Lawyers on Guard Inc.  
Women Matter  
Women's Media Center  
Zonta USA Caucus

## **B. Rulings Under Review**

References to the rulings at issue appear in the Certificate as to Parties, Rulings, and Related Cases filed by the Commonwealth of

Virginia, State of Illinois, and State of Nevada as Appellants on June 7, 2021.

### **C. Related Cases**

Related cases appear in the Certificate as to Parties, Rulings, and Related Cases filed by the Commonwealth of Virginia, State of Illinois, and State of Nevada as Appellants on June 7, 2021.

### **D. Statement Regarding Separate Briefing**

Under D.C. Circuit Rule 29(d), *amici* ERA Coalition and Advocates for Women’s Rights state that they are aware of other planned *amicus* briefs in support of reversal. Separate briefing is necessary because none of the other *amicus* briefs will address the unique perspective of *amici* as organizations that have worked toward the advancement of women’s equality for many years—in some instances, for many decades—and are uniquely positioned to understand and report on the history of the fight for equality and the persistent inequality that continues to this day. The attached brief provides a perspective different from those offered by the parties and other proposed amici, who will be focusing on other issues and perspectives.

**E. Authorship and Monetary Contributions**

Under Federal Rule of Appellate Procedure 29(a)(4)(E), *amici* state that no counsel for a party authored this brief in whole or in part. No party, counsel for a party, or any person other than *amici* and their counsel made a monetary contribution to fund the brief's preparation or submission.

Dated: January 10, 2022

/s/ Linda T. Coberly  
Linda T. Coberly

## TABLE OF CONTENTS

CERTIFICATE OF COUNSEL.....	i
A. Parties and <i>Amici Curiae</i> .....	i
B. Rulings Under Review.....	ii
C. Related Cases.....	iii
D. Statement Regarding Separate Briefing.....	iii
E. Authorship and Monetary Contributions.....	iv
INTERESTS OF AMICI CURIAE.....	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	6
I. The fight for equality has been long and hard-fought.....	6
A. Our Constitution reflected the norms of its time, intentionally depriving women of full citizenship. ....	6
B. The fight for the vote took more than a century, and even then, suffrage was not sufficient. ....	8
C. Congress passed the ERA in 1972, placing a time limit only in the resolving clause of its joint resolution.....	12
D. After the 1970s, the movement for equality proceeded, though its success has been incomplete.....	15
E. Since 2016, the ERA has surged forward, fueled by a new understanding of persistent inequality, sexual harassment, and sex-based violence. ....	18
II. The ERA remains relevant and necessary.....	21
A. Domestic and sexual violence.....	22
B. Economic and employment-related disparities.....	27
III. Publication by the Archivist is a meaningful step.....	32
CONCLUSION.....	34

## TABLE OF AUTHORITIES

	<b>Page(s)</b>
<b>Cases</b>	
<i>Bradwell v. State of Illinois</i> , 83 U.S. 130 (1873) .....	10
<i>Craig v. Boren</i> , 429 U.S. 71 (1976) .....	17
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<i>United States v. Morrison</i> , 529 U.S. 598 (2000) .....	27
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U.S. Const. amend. V .....	<i>passim</i>
U.S. Const. amend. XIV, § 2 .....	9
<b>Statutes</b>	
1 U.S.C. § 106b .....	4
<b>Legislative Materials</b>	
A.B. 378, 2021–2022 Reg. Sess. (Cal. 2021) .....	33
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H. Con. Res. 8, 101st Gen. Assemb., Reg. Sess. (Mo. 2021) .....	21

H. Con. Res. 16, 2021 Leg., Reg. Sess. (Miss.).....	21
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H.J. Res 47, 112th Cong.....	16
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H.J. Res. 3258, Gen. Assemb., 124th Sess. (S.C. 2021).....	21
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## INTERESTS OF AMICI CURIAE

Amici are a broad array of women-centered advocacy groups and organizations that fight for equality and against sex-based discrimination and violence. Led by the ERA Coalition, this diverse group includes national feminist organizations like the Feminist Majority and the National Organization for Women, advocates for women of color like the National Congress of Black Women, Inc., advocates for immigrants like the Dolores Huerta Foundation and the National Immigrant Women's Advocacy Project, religious groups like Hadassah and the Sisters of Loretto, and LGBTQ+ groups like GLAD. The Appendix contains a complete list of the amici and their interests.

Amici submit this brief to provide the Court with insight into the long history of the fight for equality, underscoring why it would be neither sensible nor consistent with the plain text of Article V to recognize a time limit on the ratification process. Amici also provide their perspective as to why the Archivist's publication of the ERA represents a meaningful step in the progress toward equality.

Appellants brought this suit to redress a particularized injury they are

suffering; their standing to sue does not depend on harm to advocates. But to the extent the district court assumed that publication would be meaningless (ECF 117 at 13–14), this brief offers additional arguments as to why that is not the case.

### **SUMMARY OF ARGUMENT**

The fight for constitutional equality is a long-term project, and progress has been painfully slow. For the first 144 years of our Nation’s history, women were denied the most basic right of citizens in a democracy: the right to vote. Women who otherwise met all criteria for voting found themselves barred from the polls, simply because of their sex. Their absence from the polls contributed to the development of laws and institutions that persistently discriminate against women.

Today, women serve with distinction in the C-suite, on the floor of Congress, on the soccer field, in the White House, and in combat. Yet women still face persistent inequality in nearly every sphere. Women are consistently underrepresented in positions of power and overrepresented among those in poverty. Women are still paid only 82 cents for every dollar paid to men—and, for women of color, even less

than that. Women also face an epidemic of domestic and sexual violence. These problems are particularly acute for Black women, Latinas, indigenous and Native American women, immigrants, lesbians, trans women, and single mothers.

In the face of this persistent inequality, the Equal Rights Amendment is as relevant today as it ever was. The ERA declares that “[e]quality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.” Drafted by Alice Paul and other suffragists in the 1920s, the ERA passed through Congress in 1972 with broad, bipartisan support. After the number of state ratifications stalled at thirty-five in the late 1970s, the fight for equality pressed forward, achieving steady progress on many fronts, including in public opinion. Today, Americans overwhelmingly support including an ERA in our Constitution. Three quarters of the States have now voted to ratify the ERA—satisfying the constitutional threshold—and there are active ratification efforts in every one of the unratified States. Yet the Archivist asks this Court to send the fight for constitutional equality back to square one.

This Court should reject that argument. The painfully slow progress toward equality makes it particularly important in this context to respect the plain text of Article V, which establishes a process for amendment that leaves no room for time limits. The ERA satisfied Article V's amendment process in January 2020, when Virginia became the thirty-eighth State to ratify. Now that the ERA has been adopted, federal law requires the Archivist to publish it. *See* 1 U.S.C. § 106b.

The seven-year time frame that Congress imposed in 1972 does not and cannot alter the process in Article V. The ERA's time frame does not appear in the amendment itself; Congress placed it only in the resolving clause of its joint resolution. At a minimum, that choice means that Congress reserved for itself the power to change the time frame in a subsequent joint resolution—as it did in 1978.

More fundamentally, however, a time frame imposed unilaterally by Congress cannot stand in the way of an amendment that has met all the requirements for ratification under Article V. The validity of an amendment depends on the plain text of Article V, which provides that an amendment becomes “valid to all intents and purposes . . . when

ratified by the legislatures of three fourths of the several States.”

Although the Framers did not recognize women as equal, they created a process for amending the Constitution that could reflect changes in our Nation’s understanding of equality, even when those changes evolve over many years. The ERA reflects such a change.

Publication by the Archivist is an important step forward. To be sure, the *legal* effect of an amendment does not depend on any action by the Executive Branch, which has no role to play under Article V. But the Archivist’s current refusal to publish the ERA is itself an inappropriate intrusion of the Executive Branch into the ratification process. One of the practical consequences of that refusal is its impact on the ongoing efforts by activists to press for revision of state statutes that continue to discriminate on the basis of sex. Although some States may be willing to make those revisions even without federal recognition of the ERA, others will not. In that respect—among others—the district court was wrong to assume that publication by the Archivist will make no difference.

## ARGUMENT

### **I. The fight for equality has been long and hard-fought.**

#### **A. Our Constitution reflected the norms of its time, intentionally depriving women of full citizenship.**

When our Nation declared its independence and confirmed in 1776 that “all men are created equal,” women were not included. A free married woman had no legal identity separate from her husband; she could not make contracts, file lawsuits, sell land, or keep her own wages. *See* Mary Beth Norton, *Liberty’s Daughters*, 46 (1980).

The legally subordinate position of women left them vulnerable to sexual coercion, which was rarely reported. *See* Sharon Block, *Rape and Sexual Power in Early America* 94 (2006). Married women could not seek prosecution for rape by their husbands until *the 1970s*, when the laws began to change. Norton, *supra*, at 47–48; Model Penal Code § 213.1 (1962) (rape defined as forcible or coerced sex by a man “with a female not his wife”). And the rape of Black women was legal regardless of the race of the perpetrator. This was particularly true during slavery, when the rape of Black women by White men was

commonplace, used as a tool of oppression. Jennifer Wriggins, *Rape, Racism, and the Law*, 6 Harv. Women's L.J. 118 (1983).

The denial of rights for women was no coincidence. Both law and culture at the time regarded women as inferior, weak, and in need of protection. See Ruth Bader Ginsburg, *Remarks on Women Becoming Part of the Constitution*, 6 Law & Ineq. 17, 20 (1988); *Frontiero v. Richardson*, 411 U.S. 677, 684 (1973). This same rationale supported denying women any political voice. Theorists like Locke, Hobbes, and Rousseau all claimed that women were inferior and argued that this inferiority was a reason to restrict them to the domestic sphere. Sylvia A. Law, *The Founders on Families*, 39 U. Fla. L. Rev. 583, 588–89, 589 n.20 (1987).

Against this backdrop, the Framers did *not* regard women as part of the Constitution's "We the People," despite their use of what is now understood as a gender-neutral term. When Abigail Adams asked her husband John to "remember the ladies" in "the new Code of Law," he dismissed her request as a joke. *Id.* at 587–88.

**B. The fight for the vote took more than a century, and even then, suffrage was not sufficient.**

One of the early milestones in the women's suffrage movement was the first Women's Rights Convention, held in 1848 in Seneca Falls, New York. See Ellen Carol DuBois, *Outgrowing the Compact of the Fathers: Equal Rights, Woman Suffrage, and the U.S. Constitution, 1820–1878*, J. Am. Hist. 836, 840 (Dec. 1987). The women who organized the 1848 gathering were abolitionists and veterans of the anti-slavery movement, which itself had become divided over the role of women. *Frederick Douglass on Women's Rights*, introduction, at 3–7 (Philip S. Foner, ed., 1992). Participants gathered for two days in Seneca Falls to “discuss the social, civil, and religious condition of woman.” Judith Wellman, *The Road to Seneca Falls* 186 (1984). The centerpiece of this event was the Declaration of Sentiments, which corrected the Founding Fathers' error and affirmed “that all men *and women* are created equal.” *Report of the Woman's Rights Convention* (1848) (emphasis added). By the Second Woman's Convention in 1851, however, the movement's focus had moved away from full equality and

more narrowly toward suffrage as the “cornerstone of [its] enterprise,” at least as a first step. *See* DuBois, *supra*, at 842.

After the Civil War, suffragists saw an opportunity to gain full citizenship in debates surrounding the Reconstruction Amendments. The American Equal Rights Association—formed by abolitionists and women’s rights advocates—pushed for universal suffrage, but the simultaneous enfranchisement of Black men and all women was viewed as politically unrealistic by some and politically undesirable by others. Lisa Tetrault, *The Myth of Seneca Falls: Memory and the Women’s Suffrage Movement, 1848–1898*, at 17 (2014). One author recounts that supporters of Black voting rights tended to focus on Black men, while White suffragists tended to focus on White women, leaving Black women “struggling for visibility and access,” despite their fervent activism for both. *Id.* at 21. In the end, women’s rights took a back seat. The Fourteenth Amendment affirmed the citizenship of all persons born or naturalized in the United States, but it guaranteed political representation only to *male* citizens. *See* U.S. Const. amend. XIV, § 2.

The Supreme Court interpreted the Fourteenth Amendment accordingly. In 1873, the Court examined whether the Privileges and Immunities Clause prevented a State from denying a law license to a woman based solely on her sex. *See Bradwell v. State of Illinois*, 83 U.S. 130 (1873). The Court held that it did not, concluding that a State may regulate the granting of law licenses as it wished. *Id.* at 139. Three justices went farther, insisting that women did not have the right “to engage in any and every profession, occupation, or employment in civil life.” *Id.* at 141 (Bradley, J., concurring). Their explanation reflects the status of women at the time:

The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. . . . The harmony, not to say identity, of interest and views which belong, or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband. . . . [N]otwithstanding some recent modifications of this civil status, many of the special rules of law flowing from and dependent upon this cardinal principle still exist in full force in most States. [*Id.*]

Only after decades of continued advocacy—including picketing, hunger strikes, beatings, arrests, and a World War—were women finally successful in winning the vote. Jessica Neuwirth, *Equal Means*

*Equal 2* (2015). Even then, however, proponents of the Nineteenth Amendment understood its limits. Many of the Black women who fought so hard for the Nineteenth Amendment remained disenfranchised until the Voting Rights Act many years later. And Alice Paul and Crystal Eastman—two legendary suffragists—recognized the limits of the voting right itself, turning their attention immediately to a broader set of protections. *Id.* They drafted the original ERA, which was introduced in Congress in 1923. *Id.*

Support for the ERA grew slowly but steadily in the following decades. The ERA became part of the Republican Party's political platform in 1940 and the Democratic platform in 1944. *Id.* at 3. It reached the floor of the Senate in 1946, securing a majority vote but not the two-thirds required in Article V of the Constitution. *Id.*

At the same time, women were emerging as an important part of the work force. When American men went overseas to fight in World War II, women took their jobs on the home front (though many were forced to relinquish them to veterans at the end of the war). Julie Suk, *We the Women* 39 (2020). Following World War II, a major expansion of

the U.S. economy increased the demand for labor. Mitra Toossi, *A Century of Change: The U.S. Labor Force, 1950–2050*, Monthly Labor Rev. (May 2002). Fueled by both the civil rights movement and the women’s movement—as well as legislation promoting equal opportunity in employment—more and more women began to work outside the home, in a dramatic increase that was unprecedented for any single segment of the labor force. *Id.* Still, fundamental inequality persisted. For decades after women’s suffrage, state laws continued to exclude women from certain jobs, professions, colleges and universities, scholarships, and even jury service. Suk, *supra*, at 53.

**C. Congress passed the ERA in 1972, placing a time limit only in the resolving clause of its joint resolution.**

In 1970, Congresswoman Martha Griffiths of Michigan filed a discharge petition in the House to bring the ERA to the floor. *See* H.R. Rep. No. 116-378, at 2 (2020). Ultimately, the House passed the ERA by a 354-to-24 margin. H.J. Res. 208, 92d Cong. (1971). In 1972, the Senate passed the ERA by a vote of 84 to 8, with strong bipartisan support. *See* H.R. Rep No. 116-378, at 12.

In the resolving clause of its joint resolution proposing the amendment, Congress provided a seven-year time frame for the States' ratification. H.J. Res. 208, 92d Cong. (1971) (amendment would be valid "when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the Congress"). Such time limits are a modern creation. The first such time limit was imposed in 1917, in the Prohibition Amendment. Danaya C. Wright, "*Great Variety of Relevant Conditions, Political, Social and Economic*": *The Constitutionality of Congressional Deadlines on Amendment Proposals under Article V*, 28 Wm. & Mary Bill of Rights J. 1, 1 (2019).

For the first half of the Twentieth Century, Congress placed such time limits in the text of the amendment itself. *Id.* at 20–25. Beginning in the early 1960s, however, Congress briefly changed its practice, moving the time limit to the preamble introducing the amendment. Wright, *supra*, at 25.

This had two important consequences. First, by placing the time frame in a resolving clause that the States would not be called upon to

ratify, Congress reserved for itself the power to *change* the time frame in the future. As the Department of Justice later opined in connection with the ERA, a subsequent Congress may “act to extend the seven-year limitation clause.” H.R. Rep No. 116-378, at 9 (citing 1977 Opinion of the Office of Legal Counsel)). Second, and more broadly, locating a time limit in a resolving clause makes it *ineffectual*. A unilateral resolution by Congress (unratified by the States) cannot alter the amendment process set out in Article V, which provides that an amendment becomes valid when three-quarters of the States have ratified it, without any limitation as to time.

At first, ratification of the ERA proceeded very quickly. Within a year, thirty States voted to ratify. H.R. Rep No. 116-378, at 3. By the end of 1977, however, the number of ratifications had reached only thirty-five—three short of the required thirty-eight. *Id.*

Rather than let the time frame expire, Congress voted by simple majority to extend it into 1982. H.J. Res. 638, 95th Cong. (1978). This reflected Congress’s understanding that the time frame was not absolute—and that a short deadline would not be appropriate for an

amendment that concerned a matter of basic civil rights. Testifying before Congress, Professor Thomas Emerson explained that “history has demonstrated that a long period of time is necessary for the nation to make up its mind with respect to fundamental changes in the status of large groups in the population.” *Equal Rights Amendment Extension: Hearings Before Subcomm. on Civil & Const. Rights of H. Comm. on Judiciary*, 95th Cong. 64 (1978).

**D. After the 1970s, the movement for equality proceeded, though its success has been incomplete.**

Although no additional States voted to ratify the ERA in the extension period, support for the ERA has only continued to grow. A new ERA has been introduced in Congress every year since 1983. Neuwirth, *supra*, at 101. And after 1992, when the 203-year-old Twenty-Seventh Amendment became law—making clear that the passage of time is not a barrier under Article V—advocates’ attention also turned to completing the ratification of the ERA proposed in 1972. *E.g.*, Allison L. Held, et al., *The Equal Rights Amendment: Why the ERA Remains Legally Viable and Properly Before the States*, 3 Wm. & Mary J. Women & L. 113 (1997). A bill was introduced in the House in 1994

to recognize ratifications by three more states, whenever they occurred. See H. Res. 432, 103d Cong. Then in 2011, the House saw the first bill to eliminate the time frame altogether. See H.J. Res 47, 112th Cong.

Advocates also sought other protections for the rights of women, both in court and in legislatures across the country. Inspired by the federal ERA campaign, States began adding equal rights protections to their own constitutions. Linda J. Wharton, *State Equal Rights Amendments Revisited: Evaluating their Effectiveness in Advancing Protection Against Sex Discrimination*, 36 Rutgers L.J. 1201, 1201 (2005). Twenty-six state constitutions now provide some guarantee against sex discrimination. Alice Paul Inst., *ERA Frequently Asked Questions* (2021), [www.equalrightsamendment.org/faq/](http://www.equalrightsamendment.org/faq/). Yet those provisions do not uniformly subject sex discrimination to strict scrutiny and have *no* impact on discrimination by the federal government. And in the other twenty-four States, there remains no constitutional guarantee at all.

Meanwhile, the Supreme Court's century-old refusal to recognize sex discrimination under the Fourteenth Amendment ended in 1971,

when the Court held that it was unconstitutional for a State to prefer men over women to administer a deceased's estate. *Reed v. Reed*, 404 U.S. 71 (1971). The Court held that a preference based on sex was “the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment.” *Id.* at 77. This was the first victory of its kind for the then-Director of the ACLU Women's Rights Project, Ruth Bader Ginsburg. She went on to secure limited protection against sex discrimination under the Fifth and Fourteenth Amendments, both as an advocate and after her confirmation to the Supreme Court. *See, e.g., Craig v. Boren*, 429 U.S. 71 (1976); *United States v. Virginia*, 518 U.S. 515 (1996) (Ginsburg, J.).

Although this jurisprudence certainly reflects progress, the “intermediate scrutiny” for sex discrimination under the Fourteenth Amendment is not only inadequate but insecure. The late Justice Scalia and many other originalists have concluded that “the Fourteenth Amendment does not ban sex discrimination.” Steven G. Calabresi & Julia Rickert, *Originalism and Sex Discrimination*, 90 *Tex. L. Rev.* 1, 2 (2011). Justice Scalia explained his views this way: “Certainly the

Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn't." *Legally Speaking: The Originalist*, Cal. Lawy. (Jan. 2011).

**E. Since 2016, the ERA has surged forward, fueled by a new understanding of persistent inequality, sexual harassment, and sex-based violence.**

In recent years, the fight for the ERA has gained significant strength from a new generation of activists, spurred by the Women's March and the "Me Too" movement. The Women's March grew out of a post on social media after the 2016 presidential election, aiming to draw attention to women's rights and collective power. Duaa Eldeib, *Women plan march on Washington day after Trump's inauguration*, Chi. Trib., Nov. 28, 2016. People of all ages took to the streets on January 21, 2017, in a global movement of staggering proportion—drawing an estimated 5.6 million protestors in nearly a thousand separate marches worldwide, spanning more than 90 countries on all seven continents. *Rise Up!*, Ms. Magazine (Spring 2017). It was the largest single-day protest in U.S. history, drawing an estimated 4.1 million people in the United States alone. Erica Chenoweth & Jeremy Pressman, *This is*

*what we learned by counting the women's marches*, Wash. Post, Feb. 7, 2017. The Unity Principles distributed by the organizers of the Women's March called for, among other things, passage of the Equal Rights Amendment. Women's March, *Guiding Vision and Definition of Principles* 4 (2017).

At the same time, the "Me Too" movement drew attention to the continued problem of sexual harassment and assault. Tarana Burke created the "Me Too" movement in 2007 to help victims of sexual harassment and assault. See *The Facts Behind the #MeToo Movement: A National Study on Sexual Harassment and Assault* at 9 (2018), [www.stopstreetharassment.org](http://www.stopstreetharassment.org). In October 2017, Alyssa Milano helped popularize the term on Twitter by inviting people to use a #MeToo hashtag to demonstrate how widespread sexual harassment and assault are in the United States. *Id.* Within days, more than a million people had used the hashtag. *Id.* In the ensuing months, dozens of high-profile men in entertainment, the arts, politics, sports, and business were fired or resigned after credible allegations of abuse.

The renewed public attention to these important issues fueled the continuing fight for the ERA. Ratification efforts had been ongoing for many years, with sustained advocacy both in state legislatures and in Congress. Neuwirth, *supra*, at 99. The new voices and attention after the Women’s March combined with sustained efforts to push the ERA forward. In March 2017—on the forty-fifth anniversary of the ERA’s passage through Congress—Nevada voted to ratify the ERA. Illinois followed suit in May 2018, followed by Virginia in January 2020. Three-quarters of the States have now ratified the ERA, satisfying all the requirements of Article V.

Immediately following Virginia’s ratification, the U.S. House of Representatives voted on a bipartisan basis to remove the 1972 time frame to eliminate any doubt that the effectiveness of the ERA depends solely on Article V. *See* H.J. Res. 79, 116th Cong. (2019) (passed Feb. 13, 2020). The House’s resolution reflected not only its judgment that the time limit is not immutable but also its recognition that for a “broad and fundamental principle” like the one reflected in the ERA, no time limit is appropriate:

Unlike the Eighteenth Amendment . . . , which related to the particular and narrow social policy of prohibition, the ERA stands for a broad and fundamental principle: namely, government institutions may not discriminate on the basis of sex. The Committee finds no less need to affirm that principle today than in 1972 or 1978—and it finds no reason to believe that such a principle will lose its vitality in the years to come.

H.R. Rep. No. 116-378, at 7–8. The House passed the same resolution again in 2021. *See* H.J. Res. 17, 117th Cong. (2021). A similar bill is pending in the Senate, with bipartisan sponsorship. *See* S.J. Res. 1, 117th Cong. (2021).

At the same time, active ratification efforts continue in all the as-yet-unratified States. Ratification bills have been introduced within the last three years in all twelve state legislatures.<sup>1</sup>

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<sup>1</sup> *See, e.g.*, Jeffrey Martin, *South Carolina Latest State to Move to Ratify ERA With Bipartisan Effort*, Newsweek, June 7, 2020; Renzo Downey, *Bipartisan coalition calls for ERA adoption*, Fla. Politics, Feb. 12, 2020; Ben Nadler, *Georgia push for ERA draws GOP support*, AP News, Jan. 30, 2019; H.J. Res. 35, 2021 Leg., Reg. Sess. (Ala.); S. Con. Res. 1012, 55th Leg., 1st Sess. (Ariz. 2021); S. Con. Res. 500, 2021 Leg. (Fla.); S. Res. 168, 2021-2022 Leg., Reg. Sess. (Ga.); H. Res 80, 2021-2022 Leg., Reg. Sess. (Ga.); H. Con. Res. 16, 2021 Leg., Reg. Sess. (Miss.); H. Con. Res. 8, 101st Gen. Assemb., Reg. Sess. (Mo. 2021); H.B. 8, Gen. Assemb., 2021 Sess. (N.C.); S.B. 15, Gen. Assemb. 2021 Sess. (N.C.); S.J. Res. 11, 58th Leg., Reg. Sess. (Okla. 2021); H.J. Res. 3258, Gen. Assemb., 124th Sess.

## II. The ERA remains relevant and necessary.

Even as women have emerged as a powerful force in our economy and the electorate, they face persistent inequality. These problems are particularly acute for women of color, immigrants, indigenous and Native American women, lesbians, trans women, single mothers, and victims of sexual and domestic violence. The continued inequality is the legacy of the historical exclusion of women's voices from our government, legal system, and other institutions. It also holds our society back more broadly, as the subjugation of women produces a society that has more conflict, less peace, less stability, and less prosperity than one that recognizes and reinforces women's fundamental equality. *See generally* Valerie M. Hudson, et al., *The First Political Order: How Sex Shapes Governance and National Security Worldwide* (2020). Below, we discuss the disparities women continue to experience in two particularly critical areas: violence and employment.

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(S.C. 2021); S.J. Res. 262, Gen. Assemb., 124th Sess. (S.C. 2021); S.J. Res. 8, 2021 Leg., Gen. Sess. (Utah); S.J. Res. 18, 92nd Gen. Assemb., Reg. Sess. (Ark. 2019); S. Con. Res. 2, 2019 Leg., Reg. Sess. (La.).

### A. Domestic and sexual violence

Between one-third and one-half of U.S. women will be subjected to domestic violence at some point in their lives. Nat'l Council of Juvenile & Family Court Judges, *A Guide for Effective Issuance and Enforcement of Protection Orders* 1 (2012) (citation omitted). Although state law generally provides for orders of protection, they are often unenforced. *Id.* at 3. Almost one-half of petitioners were abused again by their abusers within two years of obtaining a restraining order. *Id.*

At the same time, more than 40% of American women are subjected to sexual violence at some point in their lives, with only a fraction of those incidents ever prosecuted. Sharon G. Smith, et al., Nat'l Center for Injury Prevention & Control, Div. of Violence Prevention, *2015 Data Brief* (2018). For every 100 rapes or attempted rapes reported to police, only 19 cases lead to arrest, five end in a plea deal, and one ends in a guilty verdict. Melissa S. Morabito, et al., U.S. Dept. of Justice, *Decision Making in Sexual Assault Cases, Replication Research on Sexual Violence Case Attrition in the U.S., III*, 1, 16 (2019). Between 200,000 and 400,000 untested rape kits are sitting today in

police departments across the United States. Rebecca Campbell, et al., *Changing the Criminal Justice System Response to Sexual Assault*, Am. J. Community Psychol., at 1, 2 (June 2020). The persistent failure of law enforcement to take sexual violence seriously undoubtedly contributes to chronic underreporting. One study found that only 15.8% of rapes are reported to law enforcement. See Dean G. Kilpatrick et al., Med. Univ. of South Carolina, *Drug-Facilitated, Incapacitated & Forcible Rape: A National Study* 44 (2007).

The intersection between sex and race intensifies the epidemic of violence. For Black women, 40–60% have been subjected to coercive sexual contact by the age of 18. Nat’l Ctr. on Violence against Women in the Black Community, *Black Women and Sexual Assault* 1 (2018). And “violence against indigenous women has reached unprecedented levels on tribal lands and in Alaska Native Villages”; *more than half* are victims of sexual violence. Indian Law Res. Ctr., *Ending Violence Against Native Women*, at [www.indianlaw.org/issue/ending-violence-against-native-women](http://www.indianlaw.org/issue/ending-violence-against-native-women); see also *Futures Without Violence, American Indian Alaskan Native Violence Fact Sheet* 2 (2012).

LGBTQ+ people are also disproportionately affected by sex-based violence. More than 65% of transgender people experience sexual assault. Dep't of Justice, Office for Victims of Crime, *Responding to Transgender Victims of Sexual Assault: The Numbers* (2014). And transgender and nonbinary adolescents experience sexual assault at rates far higher than their peers. Gabriel R. Murchison et al., *School Restroom and Locker Room Restrictions and Sexual Assault Risk Among Transgender Youth*, PEDIATRICS, June 2019, at 1, 7.

Sexual and domestic violence is also acutely problematic for immigrants. Nat'l Sexual Violence Res. Ctr., *Immigrant Victims of Sexual Assault*, *SART Toolkit* § 6.12, [www.nsvrc.org/sarts/toolkit/6-12](http://www.nsvrc.org/sarts/toolkit/6-12). Immigrants are more susceptible to sexual assault in the workplace. *Id.* Immigrant victims of sexual violence confront not only the trauma of sexual violence but also the legal, economic, community, and other significant pressures arising from their immigrant status. *Id.* They may be unfamiliar with the legal system, lack access to service providers, and face language barriers. They may also hesitate to report their abuse for fear that seeking justice could lead to deportation. *Id.*

Where legislation has been enacted to protect against these kinds of violence, enforcement fluctuates based on the political climate. For example, Title IX prohibits sex discrimination in federally funded education programs, but regulations implementing those protections are subject to change. *E.g.*, Stephanie Saul & Kate Taylor, *Betsy DeVos Reverses Obama-Era Policy on Campus Sexual Assault Investigations*, N.Y. Times, Sept. 22, 2017. Still, one in five women in college will be the victim of a completed or attempted sexual assault, and less than 5% of such assaults are reported. Christopher P. Krebs, et al., *The Campus Sexual Assault (CSA) Study: Final Report* (2007).

More broadly, federal efforts to legislate against sexual violence have run into difficulty because of political controversy and a perceived lack of congressional power. The Violence Against Women Act passed with broad bipartisan support but was struck down in part as exceeding the power of Congress under the Commerce Clause. *See United States v. Morrison*, 529 U.S. 598 (2000). The Act's other provisions were reauthorized by Congress in 2000, 2005, and 2013, but the current reauthorization has stalled because of political controversy over the

protections needed to address violence against Native Americans, LGBTQ+ individuals, and immigrants, as well as proposed restrictions on gun ownership that would include domestic abusers who are not legally married to their victims. The second clause of the ERA—which confers power on Congress to enact legislation to protect the rights embodied in the first clause—could provide an alternative basis for congressional action.

**B. Economic and employment-related disparities**

Women continue to suffer from significant economic disparities, and legislative efforts have not succeeded in leveling the playing field. The ERA could drive change in this area, whether or not it applies against private sector employers directly. The federal government is the Nation's largest single employer, and federal and state governments together employ more than 15% of the active workforce. *See* U.S. Bureau of Labor Stat., Dept. of Labor, News Release, USDOL-21-2075, *The Employment Situation*, at Tbl. B-1; Nick Routley, *Walmart Nation: Mapping America's Biggest Employers*, Visual Capitalist (Jan. 24, 2019). And women of color—who face multiple, intersecting axes of

discrimination—make up a disproportionate share of government workers. *See* U.S. Office of Pers. Mgmt., ES-ODI-03386—12/2020, *Federal Equal Opportunity Recruitment Program Report FY 2018*, at 75 (2020).

In 2020, the median wage gap was 18 cents—meaning that a woman who worked full time earned only 82% of what a man earned. U.S. Bureau of Labor Stat., Dept. of Labor, Report 1094, *Highlights of women's earnings in 2020*, at 1 (Sept. 2021). This ratio has remained largely unchanged for more than a decade. *Id.* A woman can expect to make anywhere from \$700,000 to \$2 million less than a male colleague over her lifetime, depending on education level. Neuwirth, *supra*, at 15 (citing the WAGE Project). Even in the same job, 25% of women report earning less than male counterparts. Amanda Barroso & Anne Brown, Pew Research Ctr., *Gender pay gap in U.S. held steady in 2020* (2021).

These disparities are far more pronounced for women of color. Black women are typically paid 63 cents, Native American women 60 cents, and Latinas 55 cents for every dollar paid to White, non-Hispanic

men. National Partnership for Women & Families, *America's Women and the Wage Gap: Fact Sheet 1* (Mar. 2021).

These disparities—coupled with many other problems, including a lack of affordable, high-quality childcare and, most recently, the COVID-19 pandemic—make it inevitable that women are dramatically overrepresented among Americans in poverty. Women are 35% more likely than men to be poor, with single mothers at particularly high risk. See Legal Momentum, *Women & Poverty in America*, at <https://www.legalmomentum.org/women-and-poverty-america>; Amanda Fins, Nat'l Women's L. Ctr., *Nat'l Snapshot: Poverty Among Women and Families* (2020). In 2018, the poverty rate for families with a female head of household was 24.9%, far higher than for married-couple families (4.7%) and for families with a male head of household (12.7%). Jessica Semega, U.S. Census Bureau, *Payday, Poverty and Women* (Sept. 10, 2019).

Studies estimate that anywhere from a quarter to four-fifths of women will be subjected to workplace sexual harassment in their lifetimes. Elyse Shaw, et al., Inst. for Women's Policy Research, *Sexual*

*Harassment and Assault at Work: Understanding the Costs* 1 (Oct. 2018). In addition to the damage to a woman's mental and physical health, workplace sexual harassment can result in lost opportunities for on-the-job learning and advancement, or lead to a forced job change, unemployment, and the abandonment of a well-paying career. *Id.* at 4–5. Pregnancy discrimination remains widespread, both in blue-collar jobs and in corporate office towers. Natalie Kitroeff & Jessica Silver-Greenberg, *Pregnancy Discrimination is Rampant Inside America's Biggest Companies*, N.Y. Times, Feb. 8, 2019.

These problems pervade the public sector as well as private industry. In the military, for example, women face persistent inequality despite serving with great distinction at all levels. Although Congress repealed the combat exclusion in 1993, Department of Defense policy continued to exclude women from direct ground combat for another 20 years. Kristy N. Kamarck, Cong. Research Serv., R42075, *Women in Combat: Issues for Congress* 6, 13 (2016). Women were only recently given the opportunity to serve in all military occupations, including in special forces billets that were previously reserved for men

only. *Id.* at 14. Yet female officers continue to face adversity in promotion, in part because of their underrepresentation at service colleges and their difficulty in obtaining combat experience. Nancy A. Youssef, *The Military Offers Women Pay Equity and Opportunity, but Few Still Make Top Ranks*, Wall Street J., Oct. 13, 2019. At the same time, sexual harassment and assault in the military remain prevalent. Kelsey L. Campbell, *Protecting Our Defenders: The Need to Ensure Due Process for Women in the Military before Amending the Selective Service Act*, 45 Hastings Const. L. Q. 115, 129 (2017). Servicewomen are 16% more likely to be sexually assaulted than women in the general population, and one in four active-duty women are subjected to sexual harassment or some form of sex discrimination. *Id.* at 126, 120 n.31.

This is a problem not only for the servicewomen themselves but also for our Nation's military readiness. The recruitment of women is essential to maintain an all-volunteer force. *See* Defense Adv. Comm. on Women in the Service, *2020 Annual Report* 7 (Sept. 11, 2020). In its March 2020 report to Congress, a national commission recommended that the draft be extended to women as well as men. Nat. Comm'n on

Military, Nat'l & Pub. Serv., *Inspired to Serve* 111–23 (Mar. 2020). The potential inclusion of women in the draft further supports the notion that it is time for men and women to be recognized as equal citizens of this country.

### **III. Publication by the Archivist is a meaningful step.**

Although publication by the Archivist may have no *legal* significance, the district court's decision dramatically underestimates its *practical* significance. As Appellants' brief explains, the U.S. Code gives ratifying States a right to have their ratifications recognized by the Archivist—the deprivation of which is more than sufficient to establish the States' particularized injury and redressability for purposes of Article III. Br. 22–30.

From the perspective of ERA activists, the Archivist's publication is important indeed. Most significantly, it will increase pressure on the States to examine their laws for instances of sex discrimination. Publication “serves as official notice to the Congress and to the Nation that the amendment process has been completed.” National Archives, *Constitutional Amendment Process* (2016), [www.archives.gov/federal-](http://www.archives.gov/federal-)

register/constitution. The Archivist’s refusal to provide that “official notice” gives the States cover from the federal government to refuse to conduct their own review of their statutes and entertain requests to revise them to eliminate overt sex discrimination.

This is not a merely hypothetical concern. Some States have already started the process of reviewing and revising their statutes. *See, e.g.*, S.B. 272, 2021–2022 Reg. Sess. (Cal. 2021); A.B. 378, 2021–2022 Reg. Sess. (Cal. 2021). But in other States—where officials have insisted (with cover from the Archivist) that the ERA is not currently part of the Constitution—the work must be done by the activists themselves. For example, *amicus* ERA Task Force AZ has proposed revisions to bring the Arizona Revised Statutes into compliance with the ERA. *See* ERA Task Force AZ, *Equality for All: Statutory Revisions Necessary to Comply with the 28th Amendment (ERA)*, (2020) at 206. A similar review is underway in North Carolina and elsewhere. *The State Law Audit Project* (2022), <https://eracoalition.blog/2022/01/05/the-state-law-audit-project/>. Even ratified states can claim cover from the Archivist as a reason not to revise discriminatory statutes. *See, e.g.*,

New Jersey Commission on Sex Discrimination in the Statutes,  
*Discrimination in Education* (1989).

In this respect and others, the Archivist's refusal to comply with his statutory duty to publish the ERA is having a real-world impact on the statutory review that should flow from the completion of the ratification process.

### CONCLUSION

The ERA remains as critical today as it was in 1923—when it was first introduced—and in 1972, when a bipartisan supermajority in Congress passed it and sent it to the States. In the years since, the already powerful public consensus in favor of the ERA has only continued to grow. The slow progress of the fight for equality demonstrates that civil rights movements do not happen in a moment in time; they span generations. This makes it all the more important to respect the plain language of Article V, which sets out a process for amending our Constitution that imposes no time limits. We ask that the Court hold that a time limit in the resolving clause of a congressional joint resolution cannot stand in the way of an amendment

that meets the constitutional requirements in Article V—and that the Archivist’s publication of the amendment is not a meaningless act. The district court’s order should be reversed.

Dated: January 10, 2022

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) and 32(a)(7)(B) because this brief contains 6,464 words, as determined by the word-count function of Microsoft Word, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Circuit Rule 32(e)(1); and

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2019 in 14 point Century Schoolbook font.

Dated: January 10, 2022

/s/ Linda T. Coberly  
Linda T. Coberly

**CERTIFICATE OF SERVICE**

I hereby certify that on January 10, 2022, a true and correct copy of the foregoing was served via ECF to all counsel of record.

/s/ Linda T. Coberly

Linda T. Coberly

## APPENDIX

### STATEMENTS OF INTEREST BY AMICI

**The Alice Paul Institute (API)** educates the public about the life and work of leading equal rights activist Alice Stokes Paul (1885–1977), a major force in the ratification of the Nineteenth Amendment and the author of the Equal Rights Amendment. API offers leadership development workshops for teen girls, as well as civic engagement programs for women and men of all ages that connect history to contemporary events and issues. It is dedicated to continuing Alice Paul’s work toward the single cause of securing lasting and legally protected equal rights for all.

**American Association of University Women (AAUW)** was founded in 1881 by like-minded women who had challenged society’s conventions by earning college degrees. Since then, it has worked to increase women’s access to higher education through research, advocacy, and philanthropy. Today, AAUW has more than 170,000 members and supporters, 1,000 branches, and 800 college and university partners nationwide. To guarantee equality, individual

rights, and social justice for a diverse and inclusive society, AAUW advocates for passage and ratification of the Equal Rights Amendment.

**The American Medical Women's Association (AMWA)** works at the local, national, and international level to advance women in medicine, advocate for equity, and ensure excellence in healthcare. For more than a century, we have been dedicated to initiatives that address gender discrimination and disparities within healthcare. Passage of the ERA is essential for equity in the workplace for all, including women physicians.

**The Association of Flight Attendants-CWA, AFL-CIO (AFA-CWA)** is a labor organization that represents over 50,000 flight attendants on 19 airlines to advance the profession and enhance air safety both in the airline industry and on Capitol Hill. AFA-CWA has also led the fight for gender equality in the workplace. For decades, official airline policy prohibited women who were married, pregnant, or more than 30 years old (and all men) from employment as flight attendants. Through aggressive legal fights and advocacy, AFA-CWA successfully eliminated those discriminatory policies and negotiated

non-discriminatory protections in all its collective bargaining agreements. AWA-CWA members fully support the implementation of the now-ratified ERA to finally guarantee sex equality in America.

**BKForge (Brooklyn for Reproductive and Gender Equity)** is a grassroots organization that advances reproductive health and gender equity through advocacy, action, and collaboration, grounded in racial, environmental, and economic justice. We envision a future where health equity and gender justice are fully realized, including access to safe, legal abortions; the right to safe, economically secure pregnancy and parenthood; and the right to safety, health, and equal protection under the law, irrespective of one's gender identity or sexual orientation.

**The Black Women's Roundtable (BWR)** is a program of The National Coalition on Black Civic Participation. The BWR is an intergenerational civic engagement network that advocates for just and equitable public policy that promotes the health and wellness, economic security, education, and global empowerment of Black women.

**The Dolores Huerta Foundation** is a community benefit organization that recruits, trains, organizes, and empowers grassroots leaders in low-income communities to attain social justice through systemic and structural transformation. Among other things, the Foundation hires and trains full-time organizers who form neighborhood organizations, focused in particular on rural agricultural communities in California. The residents of these communities are primarily Latinx, immigrants, and low-income. The Foundation bears the name of its president Dolores Huerta, the labor leader and civil rights activist.

**The Domestic Violence Legal Empowerment and Appeals Project (DV LEAP)** is a national non-profit organization that makes the law work for family violence survivors through expert appellate advocacy, technical training, and policy initiatives. Working in partnership with a network of law firms, DV LEAP provides survivors across the country with pro bono appellate representation to fight unjust trial outcomes and protect their rights. DV LEAP also files amicus briefs in state and federal courts, including many briefs in the

U.S. Supreme Court, to advance judicial understanding of the law's significant implications for survivors.

**Downtown Women for Change** is a grassroots organization founded by New York women committed to preserving and advancing women's rights, supporting women and girls in the United States, and working to elect progressive, pro-choice women and allies to political office.

**Equality Utah** was founded in 2004 by a group of visionary members of the Utah lesbian, gay, bisexual, transgender, and queer (LGBTQ) community with a vision of a fair and just Utah. Today, Equality Utah's mission is to secure equal rights and protections for LGBTQ Utahns and their families.

**The ERA Coalition** promotes legal and lived equality for women and girls in the United States by working for the passage and ratification of an Equal Rights Amendment. Comprised of more than one hundred organizations across the country, the ERA Coalition advocates for and educates on the need for constitutional equality.

**ERA Minnesota**, founded in 2014, is an organization of thousands of advocates and many organizations across the State of Minnesota dedicated to making an Equal Rights Amendment part of our state & national constitutions. To that end, ERA Minnesota educates, agitates, and organizes through direct action, social media, events, and presentations throughout the State and Nation to ensure justice and equality for all.

**ERA-NC Alliance** is a grassroots advocacy group of leading women's organizations across the State of North Carolina who prioritize ratification of the ERA to guarantee equal rights under the law without regard to sex. The Alliance has thirteen Lead Organizations, including AAUW NC, Business & Professional Women of NC, NC4ERA, NC NOW, Ratify ERA-NC, Women AdvaNcE, Women's Forum, WomenNC, and YWCA of Asheville. The Alliance strives to educate the public and lawmakers as a non-partisan, non-profit organization.

**ERA Task Force AZ** was founded in 2016 to advocate for the ratification of the ERA in Arizona by increasing public awareness, engaging in widespread education, organizing at the grassroots level,

and lobbying state legislators to vote for the ERA. ERA Task Force AZ has a broad coalition encompassing many different groups and individual who share the goal of ratifying the ERA and who work for equality for all.

**The Feminist Majority Foundation** was created to advance women's equality and, most importantly, the empowerment of women and girls in all sectors of society. The Feminist Majority Foundation, led by Eleanor Smeal, has advocated and worked for the ratification of the Equal Rights Amendment to the U.S. Constitution for decades.

**The Fund for Women's Equality** promotes legal and lived equality for women in the United States by increasing public understanding of the need for comprehensive, fair, and equal treatment of women and girls under the law and the need to end sex inequality in all its forms.

**GLBTQ Legal Advocates & Defenders (GLAD)** is New England's leading public interest legal organization dedicated to creating a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. Our commitment

to equal justice under law includes addressing the sex and gender discrimination that impedes freedoms and opportunities for all women and girls, including those who are LGBTQ. GLAD has successfully litigated aspects of sex discrimination in various federal courts and in the U.S. Supreme Court, including *Obergefell v. Hodges*, 135 S. Ct. 2071 (2015); *Doe v. Shanahan*, 917 F.3d 694, 755 F. App'x 19 (D.C. Cir. 2019) (judgment); *Doe v. Shanahan*, 917 F.3d 694 (D.C. Cir. 2019) (concurring opinions); *Gill v. Office of Pers. Mgmt.*, 682 F. 3d 1 (1st Cir. 2012); *Rosa v. Park West Bank*, 214 F.3d 213 (1st Cir. 2000); and as amici in Circuit Courts around the nation. GLAD has a strong record of advocacy to empower lesbian, gay, bisexual, transgender, and queer youth in families and systems – including education, child welfare, and juvenile justice systems – so they can thrive in society.

**Hadassah, The Women's Zionist Organization of America, Inc.** is the largest Jewish women's organization in the United States. Hadassah brings women together to effect change on such critical issues as ensuring Israel's security, combating antisemitism, and promoting

women's health. Hadassah strongly supports the ERA and all efforts to eliminate discrimination and promote equality and security for women.

**Justice Revival** is a diverse, inclusive, Christian non-profit with a mission of inspiring, educating, and mobilizing U.S. faith communities to support the human rights of all people, with special attention to those marginalized based on gender or race. Its ecumenical constituency includes residents across the United States from a wide range of Christian traditions, who are united in a shared commitment to justice and equality as core religious values.

**The League of Women Voters of the United States** is a nonpartisan, community-based organization that encourages informed and active participation of citizens in government and influences public policy through education and advocacy. Founded in 1920 as an outgrowth of the struggle to win voting rights for women, the League is organized in over 760 communities and every congressional district in the United States, with more than 400,000 members and supporters nationwide. The League's mission is to empower voters, defend democracy, and promote an open governmental system that is

representative, accountable, and responsive. National and state Leagues have been leaders in pushing for ratification of the Equal Rights Amendment at the state, local, and federal levels since the Amendment was introduced.

**Legal Momentum**, the Women's Legal Defense and Education Fund, is the oldest civil rights organization in the country dedicated to advancing the rights of women and girls. For 50 years, Legal Momentum has worked to achieve gender equality through impact litigation, policy advocacy, and education. Legal Momentum has a particular focus on sexual violence and the intersection of domestic violence and sexual assault, and was the leading advocate for the landmark Violence Against Women Act.

**The Loretto Feminist Network** is a voluntary association of feminists in the larger Loretto Community, composed of the Congregation of the Sisters of Loretto and Loretto Co-members. The Loretto Feminist Network is committed to act for the empowerment of women and all people. The Loretto Feminist Movement acts to affirm the equal rights of all persons in church and society, regardless of their

racial, ethnic, class, or national background, their age, sexual orientation or gender identity.

**The Michigan Federation of Business and Professional Women's Clubs, Inc.** is an organization based in Michigan that aims to achieve equity for all women in the workplace through advocacy, education, and information. The organization educates women on current issues facing women, including topics such as human trafficking, personal development, pay equity, and the ERA.

**Michigan ERAmerica** is a coalition of organizations and individuals founded in 1976 following the first of three attempts by ERA opponents to rescind Michigan's ratification of the Equal Rights Amendment. The coalition's sole purpose is to gain ratification of a federal Equal Rights Amendment by protecting Michigan's ratification, educating the public to the benefits of constitutional equality, and aiding ratification efforts in non-ratified states. Since its founding, Michigan ERAmerica has made monetary contributions to ERA ratification efforts in non-ratified States. Its most recent contributions were made to efforts in Arizona, Illinois, North Carolina, and Virginia.

**Mormons for ERA** come together through our shared history and common community from the Church of Jesus Christ of Latter Day Saints with a goal to ratify the Equal Rights Amendment.

**The National Association of Social Workers (NASW)**, including the Virginia, Illinois, Nevada, and Alabama chapters, is the largest association of professional social workers in the United States, with 110,000 members in 55 chapters. NASW promulgates professional policies, conducts research, publishes professional studies and books, provides continuing education, and enforces the NASW Code of Ethics. With its long-standing commitment to the elimination of all forms of discrimination against women, NASW recognizes the wide range of issues that affect women and is committed to advancing policies and practices to improve the status and well-being of all women through an intersectional gender lens that addresses the inequalities women face.

**The National Association of Women Lawyers (NAWL)** provides leadership, a collective voice, and essential resources to advance women in the legal profession and advocate for the equality of women under the law. Since 1899, NAWL has been empowering women

in the legal profession, cultivating a diverse membership dedicated to equality, mutual support, and collective success. NAWL was one of the first national organizations to endorse the ERA and was present for its first reading and presentation at the National Women's Conference in 1923. Aiding in the passage of the ERA directly serves NAWL's mission to advocate for equality of women under the law by guaranteeing women equal rights and equal protection after nearly a century of activism.

**The National Council of Jewish Women (NCJW)** is a grassroots organization of more than 200,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Principles and Resolutions call for it to work toward "[r]epresentation, participation, and involvement of women in all aspects of the democratic process."

**The National Council of Negro Women (NCNW)** is an "organization of organizations" comprised of 330 campus and

community-based sections and 32 national women's organizations that enlightens, inspires and connects more than 2,000,000 women and men. Its mission is to lead, advocate for, and empower women of African descent, their families and communities. NCNW was founded in 1935 by Dr. Mary McLeod Bethune, an influential educator and activist, and for more than fifty years, the iconic Dr. Dorothy Height was president of NCNW. Johnnetta Betsch Cole, noted educator, museum professional, author and anthropologist is President and Chair of the Board of NCNW. NCNW promotes education with a special focus on science, technology, engineering, arts and mathematics; encourages entrepreneurship, financial literacy and economic stability; promotes health equity and educates women about COVID-19; and advocates for sound public policy and social justice.

**The National Immigrant Women's Advocacy Project, Inc. (NIWAP)** is a non-profit training, technical assistance, and public policy advocacy organization that develops, reforms, and promotes the implementation and use of laws and policies that improve legal rights, services, and assistance available to help immigrant women and

children who are victims of domestic violence, sexual assault, stalking, child abuse, human trafficking, and other crimes. NIWAP is a national resource center offering technical assistance and training at the federal, state, and local levels to assist a wide range of professionals who work with immigrant crime victims and/or whose work affects these victims and to assist professionals in law enforcement and the justice system. NIWAP and its Director, Leslye E. Orloff, have published legal and social science research articles about the domestic violence committed against immigrant women and children.

**The National Organization for Women** is the largest grassroots activist feminist organization in the United States and is committed to advancing equal social, economic, and political rights for all women. For more than a half century, NOW has worked tirelessly to make the ERA part of the U.S. Constitution. It deployed thousands of activists in nearly every State to educate state legislatures about the need for an ERA and urge its ratification. In 1978, NOW and others successfully lobbied Congress to extend the period for the ERA's ratification. NOW continues to educate the public, the media, and

elected officials throughout the United States about the continuing and growing need for the protections that the ERA will guarantee women and to press the legislatures of even more States to ensure that the ERA becomes enshrined in the Constitution.

**The National Women's Political Caucus (NWPC)** is the earliest multi-partisan, grassroots organization dedicated to increasing women's participation in the political process in the United States. Founded in 1971, the NWPC identifies, recruits, trains, and supports feminist women for election and appointment to public office. In addition to financial contributions, the Caucus offers campaign training for candidates and campaign managers, as well as technical assistance and advice. State and local chapters provide support to candidates running at state and local levels by helping raise money and providing crucial hands-on volunteer assistance.

**The National Women's Political Caucus Foundation** is a 501(c)(3) non-profit founded in 2012 for the purpose of building a long-term endowment fund to provide an ongoing and reliable source of funding, through yearly grants, to assist the National Caucus and its

state and local affiliate chapters with leadership development, education, training, member outreach, and research projects that promote political equality for women.

**NETWORK Lobby for Catholic Social Justice** educates, organizes, and advocates for economic and social transformation. For 50 years, NETWORK has been guided by Catholic Social Teaching, which tells us to place the needs of people at the margins at the center of our advocacy. Founded by Catholic Sisters, we continue their legacy today by lobbying for critical federal programs that support those at the margins and prioritize the common good.

**Oklahoma Women's Coalition** works to champion the collective power of Oklahomans to advance gender equity and justice, dismantling systemic injustice through policy change, advocacy, and education. The Coalition honors and amplifies the voices most affected by, and often excluded from, decision and policy-making conversations. It works to achieve a socially just and equitable world where everyone has an equal opportunity to flourish and to achieve the full potential for individuals and community.

**Project 28 MO** is a Kansas City-area organization with the mission of making the ERA the 28th Amendment to the U.S. Constitution. The organization educates and lobbies Missouri state legislators, as well as the legislators who represent Kansas and Missouri in Congress. Project 28 MO leads a Missouri ERA advocate network of statewide and city chapters and organizations that support ratification of the ERA.

**Service Women's Action Network (SWAN)** was founded in 2007 by women veterans. It is a member-driven organization advocating for the individual and collective needs of service women past, present, and future. SWAN is dedicated to ensuring that all service women receive the opportunities, protections, benefits, and respect they deserve during and following their years of service.

**Shattering Glass** is a nonpartisan nonprofit launched on International Women's Day to advance gender equity and equality for all women and girls in this nation. Through public education campaigns, advocacy, and litigation, Shattering Glass works to eliminate the social, economic, and political barriers facing women,

including gender pay gaps, bias in sports, and sexual violence.

Shattering Glass joins this amicus brief because it believes that passage of the Equal Rights Amendment is a crucial step in creating a more just society for women and girls.

**The Sisters of Loretto - Loretto Community** is a religious community founded in Kentucky in 1812 by three women who recognized the need of children in the area for education and religious formation. They were assisted in this effort by Rev. Charles Nerinckx, a Belgian missionary priest, but were not affiliated with any European foundation and have been recognized as the first American foundation of religious women. In 1979, at its Annual Assembly, the Loretto Community went on record as endorsing the Equal Rights Amendment to the U.S. Constitution and gladly joins in this latest effort to secure its ratification.

**The Sisters of St. Joseph of Carondelet** are a congregation of religious women based in St. Louis, Missouri. The congregation has sisters across the United States, in Japan, and in Peru. The sisters dedicate their lives to bringing Jesus's mission of love and unity to all

people. In a 2019 policy making meeting, the sisters committed themselves to walk with women as we claim our voice and work toward an inclusive church and society.

**South Carolina Equal Means ERA** is a nonpartisan group of women and men who have come together to support South Carolina's ratification of the Equal Rights Amendment to the U.S. Constitution. Equal Means ERA feels that the ratification of the ERA is a moral issue requiring political action. One that looks forward to a legal system in which every person will be judged on the basis of individual merit, so that all people have the power to make full use of their political and economic capabilities. We believe that by recognizing in law, the dignity and worth of every one of its citizens, the state of South Carolina and the country as a whole would empower the infinite talents of more than half of its citizens – who happen to be women.

The **US Women's Caucus at the UN** is a network of progressive US-based individuals and non-governmental organizations active at the United Nations Commission on the Status of Women and other UN bodies. We exchange information, engage in joint advocacy, and

promote the principles of the UN women's human rights agenda expressed in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Platform for Action.

**VA NOW, Inc.**, the Virginia Chapter of the National Organization for Women, is a 501(c)(4) feminist membership organization comprising chapters, members and supporters across the Commonwealth of Virginia. We advocate for and actively welcome individuals of all ages, races and ethnicities, without regard to sexual orientation, gender identity, religion, ability, and marital and economic status. As a grassroots arm of the women's movement in Virginia, VA NOW's main purpose has been to champion women's rights in this state. Our efforts in ratifying the Equal Rights Amendment in Virginia have been central to defending our current rights and achieving greater legal and political equality for all women. We have actively worked for the ERA in Virginia from our inception in 1971 until 1982 and again starting in 2011 through educating the public and energizing them through marches, petition drives, and grassroots actions such as constituent

letter writing. The ERA will advance our goals to promote feminist ideals of equity and equality; lead societal change that puts more women in political and other leadership posts; increase educational, employment and business opportunities for women; and enact tougher laws against violence, harassment and discrimination, in order to eliminate all forms of discrimination and achieve and protect the equal rights of all women and girls in all aspects of social, political, and economic life.

**VoteEqualityUS** is a nonpartisan grassroots effort promoting equality for all Americans, led by a diverse group of experienced advocates from the last three states to ratify (Virginia, Illinois, and Nevada). The team has grown to include advocates around the nation and abroad and focuses on outreach and education. Recent initiatives have included three bus tours, craftivism projects, a Capitol Hill briefing, Artists 4 ERA, and publishing an updated pocket Constitution that includes all 28 amendments.

**Voto Latino** is a grassroots political organization focused on educating and empowering a new generation of Latinx voters, as well as

creating a more robust and inclusive democracy. Through innovative digital campaigns, culturally relevant programs and authentic voices, Voto Latino shepherds the Latinx community towards full realization of its political power.

**Women Employed (WE)** is a nonprofit advocacy organization based in Chicago. Founded in 1973, its mission is to improve the economic status of women and to remove barriers to economic equity. WE pursues equity for women in the workforce by effecting policy change, expanding access to educational opportunities, and advocating for fair and inclusive workplaces so that all women, families, and communities thrive. WE works with individuals, organizations, employers, educators, and policymakers to address the economic challenges women face every day. WE strongly believes that the constitutional protection of the Equal Rights Amendment is important to achieving equal opportunity and economic equity for women.

**The Women's Equality Coalition** is an alliance of women's organizations in the metropolitan Kansas City area (Missouri and Kansas) who came together in 2012 to promote voter protection, pay

equity, and the prevention of violence against women and girls—through collective education and advocacy. Coalition members include NAACP (WIN); the KC League of Women Voters of Jackson, Clay, Platte Counties in Missouri; the League of Women Voters of Johnson County, Kansas; Zonta International of Kansas City; MainStream; AAUW, KC Chapter; United Nations Association Women of Greater KC; the Greater Kansas City Women’s Political Caucus; and the Stand UP KC-Fannie Lou Hamer Women’s Committee, among others.

**The Women’s Law Project (WLP)** is a Pennsylvania-based nonprofit public interest legal advocacy organization that seeks to advance the legal, social, and economic status of all people regardless of gender. To that end, WLP engages in impact litigation and policy advocacy, public education, and individual counseling. Founded in 1974, WLP prioritizes program activities and litigation on behalf of people who are marginalized across multiple identities and disadvantaged by multiple systems of oppression. Throughout its history, the WLP has played a leading role in the struggle to eliminate discrimination based on sex in a wide range of areas including

reproductive freedom, health, education, athletics, employment, public benefits, insurance, rights of incarcerated individuals, LGBTQ rights, racial equity, sexual assault, and family law, including domestic violence, custody and support.

**Women Lawyers On Guard Inc.** is a national, non-partisan, non-profit organization harnessing the power of lawyers and the law in coordination with other non-profit organizations to preserve, protect, and defend the democratic values of equality, justice, and opportunity for all. The organization has participated as amicus curiae in a range of cases before the U.S. Supreme Court and other federal courts to secure the equal treatment of women under the law and to challenge sex discrimination, sexual assault, and harassment.

**Women Matter** is an organization fighting for the constitutionally enshrined gender equality for all U.S. women at both the state level and in Congress.

**The Women's Media Center** is an inclusive and feminist organization that works to raise the visibility, viability, and decision-making power of women and girls in media to ensure that their stories

get told and their voices are heard. We do this by researching and monitoring media; creating and modeling original online and on-air journalism; training women and girls to be effective in media; and promoting women experts in all fields. The Women's Media Center supports the ERA as critical to realizing our mission for inclusion, equality, and representation.

The **Zonta USA Caucus** is the national arm of Zonta International, a 101-year-old global non-profit founded in the USA to empower women and girls through service and advocacy. Non-partisan and non-secular, the Zonta USA Caucus has supported the addition of the ERA to the Constitution in order to advance gender equality in the U.S. In 2017, members visited Capitol Hill en masse to advocate for ratification of the ERA. Since then, we have collaborated with the ERA Coalition to bring the U.S. into line with all the other countries that enshrine women's rights in their constitutions.