

# RESOLUTION: THE EQUAL RIGHTS AMENDMENT SHALL BE ENROLLED AS AMENDMENT XXVIII OF THE UNITED STATES CONSTITUTION

WHEREAS, pursuant to Article V of the United States Constitution, each Chamber of Congress passed H. J. Res. 208, the **Equal Rights Amendment**, by a two-thirds vote effective March 23, 1972.

WHEREAS, Article V of the United States Constitution provides, in relevant part:

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; [emphasis supplied]

WHEREAS, Article V of the United States Constitution provides no authority for either the Congress or the States to set a time limitation within which the ratification of a proposed amendment to the Constitution must be completed;

WHEREAS, in error, the proposal paragraph for H. J. Res. 208 inserted a time limitation of seven (7) years within which 38 States of the United States had to ratify the Equal Rights Amendment;

WHEREAS, Article V of the United States Constitution provides no authority for any State legislature or convention to withdraw its ratification of a proposed amendment to the Constitution which has been passed by two-thirds of each Chamber of Congress and which three-fourths of said States' legislatures have voted to ratify;

WHEREAS, the Equal Rights Amendment was in fact ratified by the 38th State in 2020.

WHEREAS, the Equal Rights Amendment states:

"ARTICLE-

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification."

WHEREAS, Under 1 U.S.C. § 106(b), the Archivist performs a ministerial role with respect to certifying the ratification of amendments to the U.S. Constitution, as follows:

Whenever official notice is received at the National Archives and Records Administration that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Archivist of the United States shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States.

WHEREAS, official notice was received at the National Archives and Records Administration of the compliance with Article V of the United States Constitution for the adoption of the Equal Rights Amendment by three-fourths of the states and two-thirds of both Chambers of Congress.

WHEREAS, the Archivist, based upon an Opinion of the Office of Legal Counsel, U. S. Department of Justice, declined to enroll the Equal Rights Amendment because the time permitted by the Congress for the ratification had expired. See NARA Press Statement on the Equal Rights Amendment, Press Release Wednesday, January 8, 2020, Washington, DC.

WHEREAS, on June 24, 2022, the Supreme Court of the United States, determined that the United States Constitution must be read and interpreted according to the "language of the instrument." *Dobbs, et al v. Jackson Women's Health Organization, et al.*, Slip. Op. 9, June 24, 2022, 597 U.S. (2022).

WHEREAS, Article V of the United States Constitution states the procedure and means by which the Constitution may be amended; the language of Article V does not set a time limit within which the Houses of Congress by two-thirds majority of each House must propose an amendment; Article V does not set a time limit within which three-fourths of the States must ratify an amendment to the Constitution; ***Article V's plain language states that, upon three-fourths of the States Legislatures ratification, such amendment "shall be valid to all intents and purposes, as part of this Constitution"***;

WHEREAS, all Constitutional prerequisites for enrollment of the Equal Rights Amendment as the XXVIII Amendment to the Constitution having been met; there being no legal basis under the Constitution's plain language of Article V or 1 U.S.C. §106 for the Archivist to have declined to perform her ministerial role for enrollment;

**NOW THEREFORE BE IT RESOLVED THAT THE TEXAS DEMOCRATIC PARTY HEREBY DEMANDS THAT THE ARCHIVIST IMMEDIATELY PERFORM HER MINISTERIAL DUTY AND ENROLL THE EQUAL RIGHTS AMENDMENT AS THE XXVIII AMENDMENT OF THE UNITED STATES CONSTITUTION.**

NOW THEREFORE BE IT FURTHER RESOLVED That this Resolution Be Promptly Presented to The Archivist of the United States, with Copies Presented to Joe Biden, President of the United States, Charles Schumer, Senate Majority Leader, Nancy Pelosi, House Majority Leader, and Merrick Garland, Attorney General of the United States.

ADOPTED BY VOTE OF THE DELEGATES OF THE TEXAS DEMOCRATIC PARTY CONVENTION  
This \_\_\_\_\_ Day of July 2022.

SIGNED ON BEHALF OF THE DELEGATES BY THE CHAIR OF THE TEXAS DEMOCRATIC PARTY:



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