



December 16, 2024

The Honorable Joseph R. Biden, Jr.
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: An Urgent Call for Your Legacy

Dear President Biden:

This month marks 101 years since the Equal Rights Amendment (ERA) was first introduced in the US Congress. The ERA would constitutionally protect equality of rights under the law regardless of sex. While it has met all ratification requirements, the ERA remains to be added to the US Constitution.

Publication of the ERA is essential for the restoration of reproductive rights and health care in our country, the enforcement of existing federal anti-discrimination laws, and the health of our democracy. On behalf of the League of Women Voters (the League), Shattering Glass, and the 141 undersigned organizations, we urge you to, in your last months serving as President of this nation, direct US Archivist Shogan to fulfill her statutory duty and certify and publish the Equal Rights Amendment as the 28th Amendment to the Constitution.

Despite the significant legal and legislative advances made in recent decades, women and other Americans continue to face discrimination on the basis of sex, fundamentally undermining a central tenet of our democracy: equality. Under the US Supreme Court's current interpretation of the Fourteenth Amendment's Equal Protection Clause, sex discrimination claims are not subject to the same strict scrutiny standard as other protected classifications, such as race.

The ramifications of applying a lower standard of review, heightened scrutiny, to sex discrimination claims are clear, including limited access to comprehensive health care, domestic violence, unequal pay, workplace harassment, pregnancy discrimination, discrimination against LGBTQIA+ individuals, and more. And with *United States v. Skrametti* currently before the US Supreme Court, there is real and substantial risk that protection based on gender and gender identity under the Fourteenth Amendment's Equal Protection Clause may be severely weakened or eliminated altogether.¹

¹ <https://www.supremecourt.gov/docket/docketfiles/html/public/23-477.html>



Two and a half years ago, supporters of women's, civil, and human rights watched in horror as the US Supreme Court overruled *Roe v. Wade*, overturning the federal constitutional right to abortion and stripping women and people who may become pregnant of a fundamental right they'd held for nearly 50 years. Today, abortion is entirely banned in 13 states — home to an estimated 17.8 million women of reproductive age — and banned before viability in another 11 states.² Researchers estimate that a nationwide abortion ban could lead to a 24% increase in pregnancy-related deaths and a 39% increase in pregnancy-related deaths among Black women.³ Across our country, women who've survived a delay in vital care due to abortion bans have gut-wrenchingly recounted their stories, and journalists have reported the stories of women who've lost their lives. This politically manufactured crisis is unacceptable.

Under your leadership, the Administration has worked to defend and increase the accessibility of FDA-approved medication abortion, defend emergency medical care and interstate travel, strengthen health data privacy, and share accurate reproductive rights information. Together with Vice President Harris, you made reproductive freedoms a cornerstone of the Presidential campaigns. In light of the incoming administration, each of these advances is under imminent threat. The publication of the ERA in the Constitution will provide a vital tool in the continued fight to protect, restore, and advance reproductive rights and justice- one that cannot just be rolled back with a change in government composition.

In 2024, we saw the prospective impact of the ERA on reproductive rights. In January of this year, the Pennsylvania Supreme Court ruled that, under Pennsylvania's ERA, which uses the same language as the federal ERA, abortion providers could challenge the state's ban on Medicaid coverage for abortion as sex discrimination.⁴ In March, a Nevada trial court also ruled that this Medicaid coverage ban violated Nevada's ERA and, in September, required the state's Medicaid program to cover abortion care services.⁵ The Equal Rights Amendment could help protect and restore the right to abortion.

Your legacy protecting women's rights stretches back to your Senate days as a champion and author of the *Violence Against Women Act* (VAWA), the decades you've spent implementing and strengthening this legislation, and your time as President taking actions to address gender-based violence (GBV). As you know well from your years of service, intimate partner violence and GBV continue to be endemic in the United States. More than 40% of women have experienced violence or stalking by an intimate partner in their lifetime.⁶

² <https://www.kff.org/womens-health-policy/dashboard/abortion-in-the-u-s-dashboard/>;
<https://states.guttmacher.org/policies/>

³ <https://osf.io/preprints/socarxiv/7g29k>

⁴ <https://www.pacourts.us/news-and-statistics/cases-of-public-interest/allegheeny-reproductive-health-center-v-pa-department-of-human-services---26-map-2021>

⁵ <https://statecourtreport.org/case-tracker/silver-state-hope-fund-v-nevada-department-health-and-human-services>

⁶ <https://www.cdc.gov/intimate-partner-violence/about/index.html>



At the heart of VAWA was a provision for a civil remedy for victims of GBV to sue their attackers. When the US Supreme Court struck this down in 2000, it asserted that Congress lacked the constitutional authority to provide a civil remedy against perpetrators of gender-based violence under the Commerce Clause of Section 5 of the Fourteenth Amendment.⁷ The Equal Rights Amendment would grant Congress the authority to pass laws addressing GBV.

You also know the vital role that equality plays in striving to build a more perfect democracy. In 2023, you co-hosted the historic second Summit for Democracy, culminating in a Declaration enumerating several international commitments, including equal protection of women's rights under law.⁸

The past four Women's Equality Days, your White House proclamation has spoken to enshrining the principle of gender equality in our Constitution. Mr. President, you have the power to make that happen.

In August, the American Bar Association (ABA), the largest voluntary association of lawyers globally, with the mission of defending liberty and pursuing justice, held its annual meeting. There, the ABA adopted a resolution recognizing the Equal Rights Amendment as the 28th Amendment to the US Constitution and urged its implementation. In doing so, the ABA warned that, without the ERA, the US Supreme Court has indicated that Fourteenth Amendment sex-based equal protection is in "grave peril."⁹

In October, the American College of Obstetricians and Gynecologists, in coordination with six medical societies, called on your Administration to do everything in your power to finalize the Equal Rights Amendment to help realize the right to reproductive health care.¹⁰

In November, the Reproductive Health Coalition, a wide range of health professional associations and reproductive justice and other allied organizations, led by the American Medical Women's Association and Doctors for America, issued a statement urging you to direct publication of the Equal Rights Amendment to address the worsening healthcare crisis.¹¹

Today, 78% of Americans favor adding the Equal Rights Amendment to the Constitution.¹²

⁷ <https://www.law.cornell.edu/supct/pdf/99-5P.ZO>

⁸ <https://www.state.gov/summit-for-democracy/>; <https://www.state.gov/declaration-of-the-summit-for-democracy-2023/>

⁹ https://www.americanbar.org/content/aba-cms-dotorg/en/news/reporter_resources/annual-meeting-2024/house-of-delegates-resolutions/601/

¹⁰ <https://www.acog.org/news/news-releases/2024/10/statement-on-the-equal-rights-amendment>

¹¹ https://8fdaf192-a63f-4cc1-ba48-30c5727fb699.usrfiles.com/ugd/8fdaf1_1a647c98a98a4934b60ed7293f12f7ad.pdf

¹² <https://www.pewresearch.org/social-trends/2020/07/07/a-century-after-women-gained-the-right-to-vote-majority-of-americans-see-work-to-do-on-gender-equality/>



We recognize the complexity of this issue. However, the continued punting of responsibility to formally recognize the only duly ratified constitutional amendment not to be added to the Constitution undermines the Constitution itself, the ratification rights of the states, the integrity of our democracy, and urgently, the liberties and lives of more than half of our population.

The undersigned organizations implore you to move beyond politics to take swift action on this urgent issue before our democracy is further eroded and more lives are lost. We deeply appreciate the leadership and consistent commitment you have shown for sex and gender equality throughout your lifetime of public service. As we carry that mantle at a pivotal time in our history, we fervently implore you to seize this historic opportunity and enshrine sex equality into our Constitution. This can be your legacy. The health, rights, and future of our democracy depend on it.

For questions, please reach out to Jessica Jones Capparell, director of government affairs at the League, (jjones@lwv.org), Rebecca Goldman, justice reform legislative and policy manager at the League (rgoldman@lwv.org), and Nicole Vorrasi Bates, executive director of Shattering Glass (nvbates@shatteringglass.org).

Sincerely,

League of Women Voters of the United States
Shattering Glass

National:

Advancement Project

All In Action Fund

American Association of University Women

American Constitution Society

American Humanist Association

American Medical Women's Association

Bend the Arc: Jewish Action

By The Women For The Women Vote

Catholics for Choice

Center for American Progress

Center for Common Ground

The Christian Left

Clearinghouse on Women's Issues

Combat Sexual Assault

DemCast USA

Democracy Labs



Democrats Abroad
Democrats for Change (DemocratsFor.US)
Doctors for America
Elizabeth Cady Stanton Trust
End Rape On Campus
EQUAL MEANS EQUAL
Equality Now
ERA Coalition
Faiths for Safe Water
Family Values @ Work Action
The Feminist Front
The Feminist Uprising
Feminists in Struggle
Few and Far Women
Free Speech For People
Fundors' Committee for Civic Participation (FCCP)
Generation Vote
Get Free
GLAAD
GLMA: Health Professionals Advancing LGBTQ+ Equality
Green Alliance for Sex-Based Rights
Guttmacher Institute
Impact Fund
Indivisible
Jewish Council for Public Affairs
Jewish Women International
Justice and Joy National Collaborative
Labor Council for Latin American Advancement
Lawyers For Good Government
Legal Momentum, The Women's Legal Defense and Education Fund
Medical Students for Choice
Military & Veterans Women's Coalition
Modern Military Association of America
Moms First
MomsRising
Moral Injury Support Network for Servicewomen, Inc.
MoveOn
Muslims for Progressive Values
National Association of Women Lawyers
National Black Justice Collective



National Center for Lesbian Rights
National Coalition on Black Civic Participation/ Black Women's Roundtable
National Consumers League
National Council of Jewish Women
National Council of Negro Women
National Disability Rights Network (NDRN)
National Education Association
National Federation of Business and Professional Women's Clubs
National LGBTQ Task Force Action Fund
National Network for Arab American Communities
National Organization for Women
National Women's Political Caucus
Nurses for America
Patient Care Heroes
People Power United
ProgressiveChristianity.org
The Restaurant Opportunities Centers United (ROC United)
Sexual Violence Prevention Association (SVPA)
SIECUS: Sex Ed for Social Change
Strike for America
Survivor Justice Action
Take Back Christianity
Training in Early Abortion for Comprehensive Healthcare (TEACH)
Trans Empowerment Project
Trans Formations Project
UltraViolet Action
United Church of Christ
Vote For Your Daughter
VoteEquality
Voters of Tomorrow
Women in Medicine, Inc.
Women Lawyers On Guard Action Network, Inc.
The Workers Circle
The Young Feminist Party
Zetas in Action
Zonta USA Caucus

State/Local:

10000 Women Louisiana
Abortion Action Missouri



AccessMatters
Alice Paul Center for Gender Justice
American Medical Women's Association Georgia Physicians
Appleton Area NOW (WI)
Arizona Center for Women's Advancement
Between the Waters
Business and Professional Women Federation of North Carolina
The California Commission on the Status of Women and Girls
Cambridge Reproductive Health Consultants
Central Phoenix Inez Casiano NOW
ERA Minnesota
ERA Ohio
ERA Task Force Arizona
ERA-NC Alliance
Good Trouble WNC
Green Party of McKean County, PA
Indiana Women's Action Movement
Indivisible Evanston
Indivisible Lincoln Square
Indivisible Marin
Indivisible Virginia
Medical Students for Choice – Northwestern Feinberg School of Medicine Chapter
National Council of Jewish Women Arizona
National Organization For Women – New Jersey
Nevada NOW
Nevadans for the ERA
North Carolina National Organization for Women (NC NOW)
NOVA NCNW Section Social Justice Committee
NOW – Akron Ohio Chapter
Ohio Federation of Business and Professional Women
Ohio NOW
PA Religious Coalition for Reproductive Justice
Pittsburgh Pride Group
Pro-Choice North Carolina
Proud Haven
Reproductive Justice Maryland
Reynolds Family Foundation
Saratoga Caucus for Reproductive Rights
TransYOUning
Wild West Access Fund of Nevada



Wisconsin Coalition Against Sexual Assault
Women Employed
Women's Forum of North Carolina
Women's Fund of Western Massachusetts
Women's Health Specialists
Women's Law Project
Women4Change Indiana

[cc: Vice President Kamala Harris]