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December 20, 2024

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Biden:

The Women's Bar Association of the District of Columbia (WBA), one of the oldest women's bar associations in the country, believes the Equal Rights Amendment (ERA) should be a fundamental constitutional principle—that women are people equal in stature to men before the law. Therefore, the WBA is joining the [Women Lawyers on Guard Action Network, Inc.](#), and the [National Association of Women's Lawyers](#) in respectfully requesting that you instruct the Archivist of the United States to certify and publish the ERA now.

As an organization, the WBA is a catalyst for women helping women and a voice for equality and parity. Since 1917, we have advocated for the advancement of women in the profession and upheld our mission to maintain the honor and integrity of the legal profession, promote the administration of justice, advance and protect the interests of women lawyers, promote mutual improvement of women lawyers, and encourage a spirit of friendship.

In 1923, three years after women won the right to vote with the passage of the Nineteenth Amendment, suffragist Alice Paul proposed the Equal Rights Amendment ("ERA" or "Amendment") as the next step in bringing equal justice under the law to all citizens, regardless of their sex.¹

In 1943, Ms. Paul revised the Amendment's text, which became Section 1 of the version passed by Congress in 1972.

The ERA consists of three sections:

- 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.

¹ Roberta W. Francis & Bettina Hager, *The Equal Rights Amendment*, National Council of Women's Organizations, (March 2013), *History – Equal Rights Amendment*

Confirm the Addition of the ERA to the Constitution as the 28th Amendment

The wording of Sections 1 and 2 mirrors that of the Nineteenth Amendment.

Members of the WBA have been lobbying in favor of the ERA since at least 1938. In 1970, WBA member and first Woman Lawyer of the Year recipient, Marguerite Rawalt, testified on the first day of Senator Birch Bayh's subcommittee hearings on the proposed ERA. After her testimony, she received a standing ovation, and her written statement was hailed by the Senators sitting on the Subcommittee as a most complete and effective legal brief. Her testimony demonstrated conclusively that women had never been legally endowed with the Constitutional rights men had enjoyed.

In 1971, several WBA members co-founded the Women's Legal Defense Fund. This Fund was devoted to securing equal rights for women through litigation, education, information, and counseling.

After Congress passed the ERA in 1972, it was sent to the states for ratification. By the extended June 30, 1982 deadline, only 35 states had ratified the ERA (three states short of the 38 required to add it to the Constitution). Since that time, the ERA has been introduced in every session of Congress; however, Congress has not voted on it in more than 30 years.

The Constitution, specifically the Fifth and Fourteenth Amendments, limits the power of the federal and state governments to discriminate including on the basis of sex. Until the passage of Title VII of the Civil Rights Act of 1964, however, discrimination based on sex in the private sector was lawful. Supreme Court Justice Ruth Bader Ginsburg put it most aptly during an April 17, 2014 session at the National Press Club, when she observed that a constitutional safeguard is important because legislation giving equal rights to women can be repealed or altered.²

Currently, our Constitution lacks a clear declaration that the sexes are equal under the law. As a result, sex discrimination in many forms continues to permeate our culture. Our current federal judicial standards provide for a lower level of scrutiny of laws that differentiate by gender: while race and religious discrimination claims garner strict scrutiny, gender discrimination claims currently merit only intermediate scrutiny.

Justice Ginsburg expressed the significance of this Amendment for future generations of women: "So, I would like my granddaughters, when they pick up the Constitution, to see that notion—that women and men are persons of equal stature—I'd like them to see that is a basic principle of our society."³ The WBA looks forward to a time when our Constitution guarantees gender equality under the law. We ask that you call on the Archivist to complete that administrative task immediately, confirming the addition of the ERA to the Constitution as the 28th Amendment.

Sincerely,

A handwritten signature in red ink that reads "M. Blatch". The signature is written in a cursive, flowing style.

Mary Blatch
President

² Scalia & Ginsburg on How They Would Amend Constitution, C-SPAN, (April 19, 2014), www.c-span.org/video/?c4496114/scalia-ginsburg-amend-constitution.

³ Debra Cassens Weiss, How Scalia and Ginsburg would amend the Constitution, American Bar Association, (April 21, 2014), www.abajournal.com/news/article/how-scalia-and-ginsburg-would-amend-the-constitution.