

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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|  |   |                           |
|--|---|---------------------------|
| COMMONWEALTH OF VIRGINIA, <i>et al.</i> ,          | ) |                           |
|  | ) |                           |
| <i>Plaintiffs,</i>                                 | ) |                           |
|  | ) | Case No. 1:20-cv-00242-RC |
| v.   | ) |                           |
|  | ) |                           |
| DAVID S. FERRIERO, <i>in his official capacity</i> | ) |                           |
| <i>as Archivist of the United States,</i>          | ) |                           |
|  | ) |                           |
| <i>Defendant,</i>                                  | ) |                           |
|  | ) |                           |
| ALABAMA, LOUISIANA, NEBRASKA,                      | ) |                           |
| SOUTH DAKOTA, and TENNESSEE.                       | ) |                           |
|  | ) |                           |
| <i>Intervenor Defendants.</i>                      | ) |                           |
|  | ) |                           |

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**BRIEF FOR GENERATION RATIFY AND OTHER GROUPS  
AS AMICI CURIAE IN SUPPORT OF PLAINTIFFS**

Beth S. Brinkmann  
Lauren Moxley  
Megan C. Keenan  
COVINGTON & BURLING  
One City Center  
850 Tenth Street, NW  
Washington, D.C. 20001  
(202) 662-6000

Kathleen Kelly  
GENERATION RATIFY  
P.O. Box 3145  
235 N Glebe Rd.  
Arlington, VA 22201  
United States

*Counsel for Amici Curiae*

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**INTERESTS OF GENERATION RATIFY AND OTHER GROUPS AS *AMICI CURIAE*<sup>1</sup>**

*Amici* Generation Ratify, Platform, Generation Upwards, Pride in Running, the Homegirl Project, and Sending Her Essentials are youth-focused organizations dedicated to equality for all persons regardless of gender, gender identity, sexual orientation, race, and ethnicity.

Generation Ratify is a youth-led movement formed to ratify the Equal Rights Amendment. Generation Ratify was founded in 2019 by 14-year-old students in a public library in Alexandria, Virginia. It now has 18 local chapters and its membership includes more than 800 young and diverse supporters of the Equal Rights Amendment across 43 states. Generation Ratify's mission is to correct the historical exclusion of women and people beyond the gender binary from the Constitution by mobilizing young people across the country to take action to support ratification of the Equal Rights Amendment. It does so by educating young people and voters, advocating for legislative change, and organizing in support of an inclusive Equal Rights Amendment.

Platform's mission is to ensure the voices of young women-identifying, non-binary, and femme folx impact the policy decisions about our bodies, lives, and futures. Through educational opportunities, intentional community building, and intersectional advocacy, Platform serves as a critical resource in the youth movement, affirming and amplifying young people's political power.

Generation Upwards is a California statewide, student-led social justice organization and student activist coalition that strives to advocate for educational equity through the power of youth voices. It brings together a diverse group of student-led organizations, teacher unions, and local officials to support its initiatives, including passing the Schools and Communities First ballot measure, creating the first-ever California Student Board Member Association, and budget

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<sup>1</sup> All parties consented to the filing of this brief. No counsel for a party authored this brief in whole or in part and no entity or person, other than *amici curiae*, their members, and their counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

advocacy through the lens of the COVID-19 pandemic. It is committed to advocating for gender equity in education through comprehensive sex education curriculum, equal access to academic and extracurricular activities, and gender-specific mental and physical health support in schools.

Pride In Running is an LGBTQ+ youth organization that provides resources to help LGBTQ+ youth and allies run for office, lobby, and gain advocacy skills. With a reach of over 300 young people nationwide, it seeks to end oppression and intolerance in our community and to equip future generations with the skills to engage in their political process.

The Homegirl Project is a youth-led organization dedicated to the empowerment of youth women of color and non-binary individuals of color. It provides a platform to amplify the voices of these young leaders and train them to become the next generation of changemakers in their communities. It fully supports the Equal Rights Amendment as it is an important step towards gaining legalized equality for women of color and non-binary individuals of color.

Sending Her Essentials, Inc. is a nonprofit dedicated to uplifting women by advocating for equal access to menstrual health products, education, and destigmatizing the period. It collaborates with like-minded organizations to create virtual and physical spaces that empower young women to discuss their experiences and concerns regarding menstrual health and related injustices impacting women.

*Amici* have a vital interest in ensuring that the Equal Rights Amendment is declared part of the Constitution, and that the Archivist publishes the Amendment, pursuant to law and the request by the ratifying Plaintiff States. *Amici*'s members are already familiar with the denial of equal rights on account of gender, sexual orientation, and race. *Amici* support cementing constitutional protections and bolstering congressional authority to legislate in furtherance of gender equality.

## INTRODUCTION

On July 4, 1776, our nation’s Founders declared that “all men are created equal” as part of the Declaration of Independence. As the decades have passed, these words have grown in meaning with our nation to encompass a view of equality broader than only white, property-owning men. In 1970, Representative Shirley Chisholm spoke in support of the Equal Rights Amendment on the House floor, explaining that “there were no black Founding Fathers, there were no Founding Mothers—a great pity, on both counts. It is not too late to complete the work they left undone.”<sup>2</sup> The fact remains that the only provision of our Constitution that explicitly protects a right against denial on account of sex is the Nineteenth Amendment, which gave women the right to vote. No longer should any generation be governed by our Constitution’s guarantee of equality under law without an explicit inclusion of women and people beyond the gender binary. Gender equality deserves a place in the Constitution, to confirm that although it is a document that was written by white men in its original form, with only property-owning men’s equality in mind, its guarantees now ensure equality to all people regardless of gender.

This brief urges the Court to declare the Equal Rights Amendment to be a valid part of our Constitution, and to direct the defendant Archivist to publish the Amendment as such. In supporting the Plaintiff States’ effort to resolve the century-long movement to guarantee gender equality in the Constitution, we urge the Court to not view the Equal Rights Amendment as only our grandmother’s fight. Rather, we urge the Court also to recognize its importance to young and diverse advocates of this generation that the Amendment be added to the Constitution. Young advocates have led the movement to ratify the Equal Rights Amendment since its inception.

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<sup>2</sup> Rep. Shirley Chisholm, For the Equal Rights Amendment (Aug. 10, 1970) (available at <https://bit.ly/30PCiha>).

Supporters of the Equal Rights Amendment recognize the expressive function it serves and the important message it will send to young people: that gender equality is among our nation's highest values. The Equal Rights Amendment also will serve as a vehicle for substantive judicial protection of gender equality under the law, including in education and economic life, as well as a basis for legislative actions to enforce those protections. Both as an expression of our country's values and as a means for change, the Amendment has the potential to further young Americans' interests in a broader guarantee of gender equality in all aspects of American life.

## **ARGUMENT**

### **I. Young Advocates Have Long Played a Central Role in Supporting Ratification of the Equal Rights Amendment as Persons Whose Rights Will Be Directly Advanced by Its Addition to the Constitution.**

Generation Ratify's mission to support ratification of the Equal Rights Amendment is the continuation of more than a century of youth advocacy for gender equality throughout the country. Young people helped draft the Equal Rights Amendment, testified before Congress about its importance, marched in the streets for its passage, and ultimately succeeded in supporting ratification of the Amendment by thirty-eight states.

#### **A. Young People Have Played a Critical Role in the Movement to Draft and Ratify the Equal Rights Amendment.**

Generation Ratify follows in the tradition of the young women in past generations who have led the movement for the Equal Rights Amendment since its inception. The initial movement for the Equal Rights Amendment took place as an outgrowth of the fight for women's suffrage in the 1910s and 1920s. The movement included prominent young advocates, such as Mabel Ping-Hua Lee, a 16-year-old leader of New York's suffrage movement who led a parade of New York

City suffragists in 1912.<sup>3</sup> The architect of the Equal Rights Amendment, Alice Paul, first joined the suffrage movement while studying in England at age twenty-two.<sup>4</sup> Paul founded the National Women's Party upon her return to the United States, and later organized the first protest in front of the White House in support of women's suffrage.<sup>5</sup>

Several young suffragists later became key players in the movement to make the Equal Rights Amendment part of our Constitution. Alice Paul began drafting the Equal Rights Amendment while a law student in 1921, alongside fellow suffragist Crystal Eastman.<sup>6</sup> Anita Pollitzer, who eventually succeeded Paul as the chair of the National Women's Party, was actively involved in the suffrage movement in her early twenties, when she was arrested for protesting women's suffrage outside the White House.<sup>7</sup> Burnita Matthews joined the fight for women's rights as a 25-year-old law student and one of several dozen women who regularly picketed the White House on Sundays on behalf of women's suffrage.<sup>8</sup> Matthews later became a lawyer for the National Woman's Party and testified before Congress in the earliest Equal Rights Amendment hearings in 1925.<sup>9</sup>

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<sup>3</sup> *Dr. Mabel Ping-Hua Lee*, Nat'l Park Service, <https://bit.ly/30MTP9t> (last visited Mar. 5, 2020).

<sup>4</sup> *Our Story*, Nat'l Woman's Party, <https://bit.ly/3fwYWis> (last visited May 13, 2020); Barbara Winslow, *Alice Paul, Suffrage Militant*, Gilder Lehrman Inst. of Am. History (2018), <https://bit.ly/3hz5iQ3>.

<sup>5</sup> *Id.*

<sup>6</sup> *A Woman's Place Is In the Sewall-Belmont House: Alice Paul and Women's Rights*, Nat'l Park Service, <https://bit.ly/2UQ0tbk> (last visited Mar. 5, 2020); Winslow, *Alice Paul, Suffrage Militant*.

<sup>7</sup> Jennifer Nelson, *Anita Pollitzer*, Jewish Women's Archive (Feb. 27, 2009), <https://bit.ly/3fxkE5S>.

<sup>8</sup> Linda Greenhouse, *Burnita S. Matthews Dies at 93; First Woman on U.S. Trial Courts*, N.Y. Times (Apr. 28, 1988), <https://nyti.ms/3hyau6P>.

<sup>9</sup> *Id.*

When the Equal Rights Amendment was first introduced in Congress in 1923, it attracted the support of young women. Shortly after that introduction, a group of young members of the National Woman’s Party “invade[d] the offices of the senators and congressmen from their states, to ask them to vote for Equal Rights.”<sup>10</sup> By 1924, Myrtle Cain—then the youngest woman legislator in the country at age 30—began traveling the country to rally support for the Equal Rights Amendment; other young women soon followed suit.<sup>11</sup> Young women continued to advance this fight throughout the following decades until the Equal Rights Amendment gained widespread support in the 1970s.<sup>12</sup>

In the 1970s, young people played critical roles in supporting ratification of the Amendment. Some young women supported the Equal Rights Amendment at their schools and universities. Law students Barbara A. Brown, Gail Falk, and Ann E. Freedman co-authored an article about the impact of the Equal Rights Amendment in the Yale Law Journal with Professor Thomas Emerson in 1971.<sup>13</sup> Members of Congress repeatedly relied upon the legal reasoning of that article in support of the Equal Rights Amendment, describing it as “clearly the leading theory”

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<sup>10</sup> *A Group of Young Members of the National Woman’s Party before the Capitol* (1923), Library of Congress, <https://bit.ly/2UQF8hS>.

<sup>11</sup> *Myrtle Cain, the youngest woman legislator in the country* (1924), Library of Congress, <https://bit.ly/2V6UM9h>; *Equal Rights Envoys of the National Woman’s Party Who Motored to Rapid City Where the Delegation, Consisting Principally of Western Women, Saw President Coolidge and Asked His Aid for the Equal Rights Amendment Now Pending In Congress* (July 1927), Library of Congress, <https://bit.ly/3hDJAKW>.

<sup>12</sup> See Jane Mansbridge, *Why We Lost the ERA* 8–10 (1986) (discussing support for the movement from the 1920s through the 1970s, particularly among Republicans); see, e.g., 79 Cong. Rec. 9305 (July 18, 1946) (Sen. Guffey of Pennsylvania) (listing an association for graduate students pursuing business degrees and the National Association of Colored Women “[a]mong the national organizations endorsing the amendment”).

<sup>13</sup> See Barbara Brown et al., *Equal Rights Amendment*, 80 Yale L.J. 871 (1971).

of the Amendment and as “a masterly piece of scholarship, which deserves to be brought to the attention of every Senator and the public.”<sup>14</sup>

Other students also testified before Congress in 1971, including about the discrimination that women faced in educational settings. When testifying before Congress, female students from George Washington University were asked: “How many women do you know who want to be drafted?” They answered: “Just as many as the number of men who want to be drafted.”<sup>15</sup>

Support for the Equal Rights Amendment also came from young women working within the government. In 1970, Miss P. Dee Boersma, a student government leader at The Ohio State University, served on President Nixon’s Task Force on Women’s Rights and Responsibilities, which recommended that the President support ratification of the Equal Rights Amendment.<sup>16</sup> In 1972, a vocal Equal Rights Amendment proponent became the then-youngest woman elected to U.S. Congress at 31 years old. Representative Elizabeth Holtzman gained her seat by defeating 84-year-old Emanuel Celler, then the most senior member of the House of Representatives, who had opposed the Equal Rights Amendment since 1923 when it was very first introduced in Congress.<sup>17</sup> Representative Holtzman eventually worked with Republican Margaret Heckler to establish a bipartisan Congresswomen’s Caucus in 1977, which organized in support of the Equal Rights Amendment.<sup>18</sup> Holtzman presided over hearings in the House Judiciary Committee’s

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<sup>14</sup> See 92 Cong. Rec. 35032 (Oct. 5, 1971) (Sen. Bayh of Indiana); 98 Cong. Rec. 32644 (Nov. 15, 1983) (Sen. Garn of Utah).

<sup>15</sup> 92 Cong. Rec. 35785 (Oct. 12, 1971) (Rep. Edwards of California).

<sup>16</sup> President’s Task Force on Women’s Rights and Responsibilities, *A Matter of Simple Justice* (Apr. 1970), <https://bit.ly/3fwruIN>.

<sup>17</sup> Julie C. Suk, *We the Women: The Unstoppable Mothers of the Equal Rights Amendment* at 114–15 (publication forthcoming) [hereinafter “*We the Women*”].

<sup>18</sup> U.S. House of Representatives, *Organizational Efforts*, <https://bit.ly/3hBtG3C> (last visited Apr. 23, 2020).

Subcommittee on Civil and Constitutional Rights about extending the Equal Rights Amendment deadline. When the House voted on the deadline extension in 1978, every woman in the House supported it—Republicans and Democrats alike.<sup>19</sup>

Young women also supported the Equal Rights Amendment by joining and participating in advocacy groups. In 1971, 33-year-old Dorothy Pitman Hughes co-founded Women’s Action Alliance. Pitman Hughes toured the country with leading advocate Gloria Steinem to “galvanize grassroots support for the movement and to help establish feminism as intersectional and mainstream,” including by speaking at college campuses.<sup>20</sup> In 1973, 26-year-old Margaret Sloan co-founded the National Black Feminist Organization, which also supported ratification.<sup>21</sup>

Many young women advocated for the Equal Rights Amendment in protests, marches, and public demonstrations as well. On August 26, 1970, the National Organization for Women organized the Women’s Strike for Equality.<sup>22</sup> Tens of thousands of people marched for equality, including college students and a group of high school students that called themselves “H.S. Women Unite.”<sup>23</sup> Some intergenerational families marched together, including families with

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<sup>19</sup> *We the Women* at 114–15.

<sup>20</sup> Dorothy Pitman Hughes, Speech to Naval Academy (May 4, 1972) (available at <https://bit.ly/2AHk5Yj>); *Women’s Liberation*, Recovering Democracy Archives, <https://bit.ly/2Axgg89> (last visited Apr. 16, 2020); Jennifer Baumgardner & Amy Richards, *ManifestA: Young Women, Feminism, and the Future* 74 (2010).

<sup>21</sup> Jael Silliman et al., *Undivided Rights: Women of Color Organizing for Reproductive Justice* 63 (2d ed. 2016); Serena Mayeri, *Reasoning from Race: Feminism, Law, and the Civil Rights Movement* 196 (2011).

<sup>22</sup> Sascha Cohen, *The Day Women Went on Strike*, TIME (Aug. 26, 2015), <https://bit.ly/30L8T7H>.

<sup>23</sup> Warren K. Leffler, *Women’s Strike Day, 1970*, U.S. News & World Report Magazine/Library of Congress (Aug. 26, 1970), <https://bit.ly/2YB4hOM>; Linda Charlton, *Women March Down Fifth in Equality Drive*, N.Y. Times (Aug. 27, 1970), <https://nyti.ms/3hz63bR>.

grandmothers, mothers, and daughters.<sup>24</sup> The Women’s Strike for Equality became an annual event. In 1971, thousands of young women marched on Fifth Avenue in New York City to “press their demands for equality with men in every aspect of American life.”<sup>25</sup> In March 1975, women marched in New York City for International Women’s Day, demanding ratification of the Amendment. Observers noted that the march was “mostly” attended by “exuberant young people,” chanting “E.R.A., All the Way.”<sup>26</sup> In July 1978, 100,000 people and 300 organizations joined the National Organization for Women’s March for Equality in Washington D.C., including the American Association of University Women and Girl Scouts of America.<sup>27</sup>

A 1975 Gallup poll indicated that the Equal Rights Amendment garnered the greatest support among young people: over two-thirds of people under 30 supported the Amendment, as compared with 51 percent of people over 50 supporting the Amendment.<sup>28</sup> In the 1970s, high school and college students joined leaders and long-time members of the women’s movement to pack the galleries of the House during debate on the Equal Rights Amendment.<sup>29</sup> In the 1980s, the National Organization for Women “conduct[ed] campaigns on 450 campuses to increase

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<sup>24</sup> Leffler, *Women’s Strike Day*.

<sup>25</sup> Grace Lichtenstein, *6,000 March on Fifth Avenue to Protest Sex Bias*, N.Y. Times (Aug. 27, 1971) <https://nyti.ms/30NL3Z1>.

<sup>26</sup> Judy Klemesrud, *March and Rally Celebrate First International Women’s Day*, N.Y. Times (Mar. 9, 1975), <https://nyti.ms/30P8EZ6>.

<sup>27</sup> Leslie Bennetts, *Supporters of the Equal Rights Amendment Gathering for March in Washington Sunday*, N.Y. Times (July 7, 1978), <https://nyti.ms/30OdtC7>.

<sup>28</sup> Nadine Brozan, *58% in Gallup Poll Favor Equal Rights*, N.Y. Times (Apr. 10, 1975), <https://nyti.ms/2Y5kiNY>.

<sup>29</sup> Eileen Shanahan, *Equal Rights Amendment Passed by House, 354-23*, N.Y. Times (Oct. 13, 1971), <https://nyti.ms/3e714Nm>.

participation.”<sup>30</sup> By the 1990s, students in twelve states had created high school chapters of the National Organization for Women.<sup>31</sup> One teen program coordinator commented that “interest in women’s issues among teenagers was growing in part because women who came of age when equal rights for women was a central issue on the country’s social agenda, are now, as educators and parents, able to help young women connect their own experiences and feminist issues.”<sup>32</sup> Members of the National Organization for Women referred to these 1990s “high school feminists as ‘E.R.A.’s babies’—daughters of women who were on the frontlines of the failed fight for the equal rights amendment to the Constitution.”<sup>33</sup>

**B. The Young and Diverse Coalition Supporting Ratification of the Equal Rights Amendment Will Benefit the Most From Adding the Amendment to the Constitution.**

Young people will benefit directly by addition of the Equal Rights Amendment to the Constitution and thus have particular interest in the Court granting relief to the Plaintiff States. The coalition of people supporting ratification of the Equal Rights Amendment today is young and diverse. Young people working in coalitions of people of different genders, gender identities, sexual orientations, religious backgrounds, racial backgrounds, and ethnic backgrounds played a critical role in supporting the efforts in the final three states to ratify the Equal Rights Amendment.

In Nevada, the first state to revive the push to ratify the Equal Rights Amendment, one of the leaders of the effort was Senator Pat Spearman—a Black former pastor, veteran, and the first

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<sup>30</sup> Nadine Brozan, *NOW at 20: Reassessment in a New Era*, N.Y. Times (Dec. 1, 1986), <https://nyti.ms/2zEenpJ>.

<sup>31</sup> Melinda Henneberger, *In the Young, Signs That Feminism Lives; Piqued by High School Harassment*, N.Y. Times (Apr. 27, 1994), <https://nyti.ms/2N3g2rR>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

openly gay member of the Nevada legislature.<sup>34</sup> Yvanna Cancela, a daughter of Cuban immigrants who began her political career as an organizer of immigrant workers, was the youngest woman in the Nevada Senate at 30 years old when she co-sponsored the Nevada bill to ratify the Equal Rights Amendment and “helped push ERA ratification over the finish line.”<sup>35</sup> On the floor of the Nevada Senate, Senator Cancela said: “I stand in support today of [ratification] not only because I recognize that I stand on the shoulders of countless women who have both made their voices heard and sat in this body and supported this measure before but for young women and little girls everywhere who can see on paper that equality is real.”<sup>36</sup>

Young and diverse legislators also led the charge in Illinois and Virginia to ratify the Equal Rights Amendment. Christian Mitchell, a Black, 32-year-old Illinois state representative, was “critical in the fight to pass ERA,” as was Representative Juliana Stratton, a Black woman who now serves as Illinois’s lieutenant governor.<sup>37</sup> And in Virginia, the final state to ratify the Amendment, the leading Equal Rights Amendment advocates included “lawmakers like [Jennifer] Carroll Foy, Hala Ayala, Jennifer McClellan, all women of color; and Danica Roem, the first openly transgender person to be seated in a state legislature.”<sup>38</sup>

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<sup>34</sup> Fabiola Cineas, *The Equal Rights Amendment May Have Found Its Moment*, New Republic (Jan. 16, 2020), <https://bit.ly/2YKMsgp>.

<sup>35</sup> Carrie N. Baker, *Nevada Says ERA Yes*, Ms. Magazine (June 12, 2017), <https://bit.ly/2Ayk74T>; Yvanna Cancela, *About Yvanna* (2019), <https://bit.ly/30MAe9o>.

<sup>36</sup> Senate Floor Session, Nevada Legislature (Mar. 1, 2017), <https://bit.ly/3hGA1ef> (remarks from 39:12–39:50).

<sup>37</sup> Bernard Schoenburg, *Rep. Christian Mitchell named interim executive director of state Democratic Party*, State Journal Register (Jul. 10, 2018), <https://bit.ly/2YFBLM2>; Bill Chappell, *One More To Go: Illinois Ratifies Equal Rights Amendment*, NPR (May 31, 2018), <https://n.pr/3hzctrw>.

<sup>38</sup> Cineas, *The Equal Rights Amendment May Have Found Its Moment*.

These state legislators were buoyed by support from young activists, including Generation Ratify and peer grassroots organizations like VAratifyERA. VAratifyERA launched its volunteer, nonpartisan grassroots campaign that supported ratification of the Equal Rights Amendment in October 2017.<sup>39</sup> VAratifyERA’s members included volunteers who were not yet of voting age.<sup>40</sup> VAratifyERA campaign advertisements featured a slogan coined by a 12-year-old supporter: “Not One More GenERAtion.”<sup>41</sup>

Generation Ratify and VAratifyERA are part of a broader, growing movement of young and diverse individuals who support the Equal Rights Amendment. In 2009, Kamala Lopez—an actress, filmmaker, and activist—began traveling around the country to speak to students in colleges and high schools about her “ERA Education Project,” a compilation of social media campaigns, educational videos, and curriculum she created to educate Americans on the Equal Rights Amendment.<sup>42</sup> In 2016, Lopez released *Equal Means Equal*, an award-winning documentary that activists across the country use in “community screenings, house parties and online to reinvigorate the fight to complete ERA ratification.”<sup>43</sup>

Also in 2016, middle school students in Massachusetts formed an organization called the Yellow Roses, describing themselves as “too young to vote but too angry to accept that women’s rights are left up to ‘interpretation’” instead of being enshrined in the Constitution. The

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<sup>39</sup> *Virginia, We’ve Made History*, VAratifyERA, <https://varatifyera.org/> (last visited May 5, 2020); *VAratifyERA: Election result good news for women, girls across Virginia*, Augusta Free Press (Nov. 5, 2019), <https://bit.ly/2Bc2tni>.

<sup>40</sup> *VAratifyERA: Election result good news for women, girls across Virginia*, Augusta Free Press.

<sup>41</sup> Katherine Hafner, *Virginia Could Be the Last State Needed to Ratify the Equal Rights Amendment. A New Campaign Aims to Make Sure It Happens.*, *The Virginian-Pilot* (Aug. 24, 2018), <https://bit.ly/2N688OA>.

<sup>42</sup> *Equal Means Equal*, Kamala Lopez, <https://bit.ly/2YJkAci>.

<sup>43</sup> *Id.*

organization's members contact elected officials, create petitions, and coordinate other supporters to raise awareness about the Amendment.<sup>44</sup> Since 2017, the ERA Coalition—a ratification advocacy organization led by Carol Jenkins—has hosted an annual Campus ERA Day where students across the nation express support for the Amendment.<sup>45</sup>

In light of the leadership of young people in working to achieve ratification of the Equal Rights Amendment, it is unsurprising that America's youth disproportionately support the Amendment. A recent poll shows that 71 percent of respondents under the age of 30 support the Equal Rights Amendment—a level of support higher than any other demographic of respondents.<sup>46</sup> The young and diverse coalition's devotion to an inclusive vision of gender equality has rekindled the fight for the Amendment. *Amici* submit this brief as one more step toward seeing a century-long fight for equality realized in our Constitution.

## **II. The Equal Rights Amendment Has the Potential to Advance Broader Rights of Gender Equality for Young People.**

The Equal Rights Amendment has tremendous potential power. By enshrining in the U.S. Constitution a right to equality on the basis of sex, the Equal Rights Amendment will demonstrate that gender equality is among our nation's highest values. And the Equal Rights Amendment will also have practical significance. The Amendment will serve as a secure guarantee that equality of rights shall not be abridged or denied on account of sex—a guarantee enforceable through the courts. It will also provide Congress with a strong constitutional basis for enacting legislation

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<sup>44</sup> Yellow Roses, <http://theyellowrosesera.org> (last visited Apr. 16, 2020); Yellow Roses, *Supporters*, <http://theyellowrosesera.org/supporters/> (last visited Apr. 16, 2020); *Gloria Steinem in Conversation With Feminist Activists The Yellow Roses on the Equal Rights Amendment*, Teen Vogue (Sept. 6, 2017), <https://bit.ly/2YJEYdd>.

<sup>45</sup> *Countdown until Campus ERA Day*, ERA Coalition, <https://bit.ly/2CfMsxd>; *Our Team*, ERA Coalition, <https://bit.ly/2UO6Ewo>.

<sup>46</sup> Kathy Frankovic, *Equal Rights Amendment: Ratify Now or Start Over?*, YouGov (Feb. 21, 2020), <https://bit.ly/3hvXezw>.

furthering sex equality at the federal level. The Amendment has the potential to advance interests important to young people both as a symbol of equality and as a vehicle for substantive change.

**A. The Equal Rights Amendment Will Further Equal Opportunity in Education.**

Women have been concerned about equality in American education since before our country's founding. Prominent women at the Revolutionary War period, like Abigail Adams, advocated for the equal education of girls, saying: "I regret the trifling narrow contracted education of the Females of my own country."<sup>47</sup> Eliminating discrimination on the basis of sex in education was also a major focus of congressional debate on the Equal Rights Amendment in the 1970s and 1980s.<sup>48</sup> In 1971, Representative Bella Abzug of New York explained that sex discrimination is an important issue it is "so pervasive in our every level of educational system, and because it shapes the aspirations of young girls when their personalities and expectations are most malleable."<sup>49</sup> Representative Abzug's concern still rings true today, when access by girls and LGBTQIA+ youths to a meaningful education remains hindered, including by sexual harassment and sexual assault, archaic gender-based stereotypes, and even the inability to access necessary menstrual hygiene products.

Despite important legislation such as Title IX, sexual harassment and sexual assault continue to stand in the way of girls and women in education, both at the grade school and

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<sup>47</sup> Lisa Moore et al., "Letter to John Adams June 30, 1778," in *Transatlantic Feminisms in the Age of Revolutions* 168 (2012).

<sup>48</sup> See, e.g., 92 Cong. Rec. 35312 (Oct. 6, 1971) (Rep. Abzug of New York) ("Females first learn in the classroom that they can aspire to no better than second-class citizenship."); 98 Cong. Rec. 32672 (Nov. 15, 1983) (statement by Rep. Hall of Indiana) ("Boys are taught to be leaders and achievers; girls are taught to be mothers, housewives, secretaries and receptionists."); 92 Cong. Rec. 35312 ("Females first learn in the classroom that they can aspire to no better than second-class citizenship. . . . The formative influence on young minds of societal expectations cannot be exaggerated.").

<sup>49</sup> 92 Cong. Rec. 35312.

university levels. Fifty-six percent of girls in grades seven through twelve report experiencing sexual harassment in school,<sup>50</sup> and one in nine female high school students report experiencing dating violence in the past year.<sup>51</sup> Of the roughly 135,600 harassment incidents that were reported in K–12 schools during the 2015–2016 school year, more than 40 percent were sex-based and 63 percent of those targeted were girls.<sup>52</sup> The instances of sexual assault and sexual harassment are also high in universities. In one survey, over 23 percent of female undergraduate students reported being subject to sexual assault or sexual misconduct.<sup>53</sup> At the same time, 75 percent of transgender youth reported feeling unsafe at school,<sup>54</sup> and 85 percent of LGBTQIA+ students in grades six through twelve had been verbally harassed.<sup>55</sup>

The effects of sexual assault and harassment on victims endure beyond the initial trauma. Victims of sexual assault and sexual harassment in grade school are more likely to cut class, get lower grades, or drop out of school.<sup>56</sup> Similarly, sexual assault prior to entering college is

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<sup>50</sup> Catherine Hill, Ph.D., & Holly Kearl, M.A., *Crossing the Line: Sexual Harassment in Schools* 2, AAUM (2011), <https://bit.ly/3fvvd9l>.

<sup>51</sup> *Sexual Misconduct in Schools*, AAUM, <https://bit.ly/3fufIUx>.

<sup>52</sup> U.S. Dep't of Educ., Office for Civil Rights, *2015–16 Civil Rights Data Collection School Climate and Safety* 5, 7 (2018), <https://bit.ly/2URxUKD>.

<sup>53</sup> *Id.*

<sup>54</sup> *Issues: Youth & Students*, Nat'l Ctr. for Transgender Equal., <https://bit.ly/2YEyH2J>; “*Like Walking Through a Hailstorm*”: *Discrimination Against LGBT Youth in US Schools*, Human Rights Watch (Dec. 7, 2016), <https://bit.ly/2CbMENT>.

<sup>55</sup> *The Next Generation of Title IX: Harassment and Bullying Based on Sex*, Nat'l Women's Law Ctr. (June 2012), <https://bit.ly/3fpNtku>.

<sup>56</sup> Jodi Lipson, *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School* 43, AAUW Educ. Found. (2001), <https://bit.ly/2UUaHrk>.

correlated with lower college GPA, and sexual assault or sexual harassment during college is correlated with lower academic outcomes, lower academic interest, and higher stress.<sup>57</sup>

Gender stereotypes also hinder girls' access to a meaningful education. As Representative Abzug noted in 1971, discrimination in schools continues to "shape[] the aspirations of young girls" today, particularly at ages "when their personalities and expectations are most malleable."<sup>58</sup> Some prominent education advocates still train public school teachers that pursuit of power is a universal male trait and pursuit of comfort a universal female one.<sup>59</sup> These antiquated views reinforce confining sex stereotypes, pigeonholing young people into potentially damaging roles and expectations, increasing girls' anxiety in the classroom, and stigmatizing students who do not conform to gender roles. These harmful stereotypes also can create self-fulfilling prophecies. For example, a 2011 study found that girls tend to have more negative attitudes about their capabilities in math as a result of parents' and teachers' gender-biased attitudes, and that these attitudes play a critical role in math performance and the pursuit of math-related career paths.<sup>60</sup> These same stereotypes may be partly responsible for the fact that, although women's participation in higher

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<sup>57</sup> Victoria Baynard et al., *Academic Correlates of Unwanted Sexual Contact, Intercourse, Stalking, and Intimate Partner Violence: An Understudied but Important Consequence for College Students*, *J. Interpersonal Violence* 1, 3, 11 (2017), <https://bit.ly/2CeAyDQ>.

<sup>58</sup> 92 Cong. Rec. 35312.

<sup>59</sup> See *Boys' Brains Vs. Girls' Brains: What Sex Segregation Teaches Students*, ACLU, <https://bit.ly/3e8tXsL>; *Preliminary Findings of ACLU: "Teach Kids, Not Stereotypes" Campaign*, ACLU (2012), <https://bit.ly/2N6u7VE>.

<sup>60</sup> Elizabeth A. Gunderson et al., *The Role of Parents and Teachers in the Development of Gender-Related Math Attitudes*, *Sex Roles: Feminist Forum* 153, 153 (May 11, 2011).

education and the work force has increased significantly over the last hundred years, participation in science, technology, engineering, and math remains disproportionately low.<sup>61</sup>

Inability to access menstrual hygiene products poses another barrier to equal opportunities for menstruating students' access to a meaningful education. Only four states require public schools to provide menstrual products to students.<sup>62</sup> For many menstruating students living in poverty, the cost of tampons or pads—at seven to ten dollars per box—is an unaffordable expense that can prevent them from being able to attend school on certain days. The challenges to accessing menstrual products are compounded by existing structures of inequality in federal assistance programs and tax regulations. Medicaid, SNAP (Supplemental Nutrition Assistance Program, *i.e.* food stamps), and WIC (Special Supplemental Nutrition Program for Women, Infants, and Children), upon which many menstruating students' families rely to cover basic necessities, do not cover menstrual products, instead grouping them as prohibited purchases along with cosmetics, alcoholic beverages, and tobacco products.<sup>63</sup> What is more, 34 states still tax menstrual products, while other necessities, such as groceries, or even non-necessities, such as lip balm in Virginia, or Mardi Gras beads in Louisiana, are tax-free.<sup>64</sup>

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<sup>61</sup> Women are significantly underrepresented both in STEM majors and career fields. *See The STEM Gap: Women and Girls in Science, Technology, Engineering and Math*, AAUW, <https://bit.ly/3daTFeJ>.

<sup>62</sup> *See The Unequal Price of Periods*, ACLU (2019), <https://bit.ly/37FeJZB>.

<sup>63</sup> *See* U.S. Dep't of Agric., Facts About SNAP, <https://www.fns.usda.gov/snap/facts>.

<sup>64</sup> *See* Tax Free Period, Interactive Map, <https://www.taxfreeperiod.com/>; Eleanor Goldberg, *Why Many Native American Girls Skip School When They Have Their Periods*, HuffPost (Aug. 25, 2017), <https://bit.ly/2N1yMrR>. Some states, and the District of Columbia, have gotten rid of the so-called “pink tax” in recent years. *See, e.g.*, Aaron C. Davis, *The ‘Tampon Tax’ Fight has Reached D.C.*, Wash. Post (Apr. 4, 2016), <https://wapo.st/2BdFPeo>. New York was one such state to do so; previously, the State had exempted “medical necessities,” including Viagra and Rogaine, but not menstrual products. *See* Press Release, New York State Governor, Governor Cuomo Signs

As a result, menstruating students who cannot afford and are not provided menstrual hygiene products must miss school. A recent study found that nearly 13 percent of girls had missed school, and nearly 24 percent had left school early for the day because they didn't have access to necessary menstrual hygiene products.<sup>65</sup> Further, over 17 percent of respondents in that study identified lack of access to menstrual hygiene products as having affected their ability to learn.<sup>66</sup> Unsurprisingly, it is often the most marginalized menstruating students who are harmed. For example, a recent examination of this issue in middle schools and high schools on the Pine Ridge Indian Reservation found that, for the most economically disadvantaged students, having a period can mean regularly missing as much as a week of school at a time.<sup>67</sup> Because students can begin menstruating as early as elementary school, the total lost instruction time has a long-term effect on their ability to learn.

This inequality based on sex persists despite important progress in the courts and in Congress. In calling for the Equal Rights Amendment in 1982, Representative Jerry Brown of California explained, “[r]ecently, women have begun to understand just how vulnerable they still are as nearly every program, every advance, has been attacked or weakened,” including the Women’s Education Equity Act, Title IX family planning, and the Equal Rights Amendment.<sup>68</sup> Representative Brown’s statement translates readily to the present day. Despite the continued

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Legislation to Exempt Sales and Use Taxes on Feminine Hygiene Products (July 21, 2016), <https://on.ny.gov/2Y7UQYf>.

<sup>65</sup> Christopher A. Cotropia, *Menstruation Management in United States Schools and Implications for Attendance, Academic Performance, and Health*, 6 *Women’s Reprod. Health* 289, 289 (2019).

<sup>66</sup> *Id.*

<sup>67</sup> See *The Unequal Price of Periods*, ACLU (2019); Goldberg, *Why Many Native American Girls Skip School When They Have Their Periods*.

<sup>68</sup> 97 Cong. Rec. 16120 (July 14, 1982) (statement by Rep. Brown of California).

prevalence of sexual assault in schools, the federal government recently issued regulations weakening schools' obligations to address sexual misconduct in education under Title IX.<sup>69</sup> This action "dramatically reduc[es] schools' obligations to address sexual harassment and assault."<sup>70</sup> Despite the prevalence of violence against and harassment of transgender students, the federal government is also rolling back protections for transgender students by rescinding federal guidance that had articulated protections for transgender students under Title IX.<sup>71</sup>

The Equal Rights Amendment will secure gender equality as the law of the land. By anchoring in our Constitution a prohibition against equal rights being denied or abridged on the basis of sex, the Amendment will serve as an important structural backstop against regressions in gender equality. First, the Amendment will reinforce and strengthen the suspect nature of legal categorizations based on sex,<sup>72</sup> enhancing the ability of litigants to bring challenges to discriminatory laws and practices, such as the tampon tax.<sup>73</sup> Second, the Equal Rights Amendment

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<sup>69</sup> U.S. Dep't of Educ., *Summary of Major Provisions of the Department of Education's Title IX Final Rule and Comparison to the NPRM* (May 6, 2020), <https://bit.ly/3fwUFLl>.

<sup>70</sup> *ACLU Comment on Department of Education's Final Title IX Rule on Sexual Harassment*, ACLU (May 6, 2020), <https://bit.ly/3fulCj3>. The new rule narrows the definition of sexual harassment, eliminates schools' responsibility investigate off-campus incidents, allows a higher burden of proof, and makes it harder to hold schools responsible for failing to investigate. U.S. Dep't of Educ., *Summary of Major Provisions of the Department of Education's Title IX Final Rule and Comparison to the NPRM*.

<sup>71</sup> *See* Dear Colleague Letter, U.S. Dep't of Educ. (Feb. 22, 2017), <https://bit.ly/38bssI4>.

<sup>72</sup> *See, e.g.,* Martha F. Davis, *The Equal Rights Amendment: Then and Now*, 17 Colum. J. Gender & L. 419, 432 (2008).

<sup>73</sup> Some scholars argue that the taxes on menstrual hygiene violate the existing Equal Protection Clause. *See* Erwin Chemerinsky & Jennifer Weiss-Wolf, *Taxing Tampons Isn't Just Unfair, It's Unconstitutional*, L.A. Times (July 11, 2019), <https://lat.ms/2UQTI96>. This argument would be strengthened under the Equal Rights Amendment. Davis, *The Equal Rights Amendment: Then and Now*, 419, 432 (explaining that studies show that legal challenges under strict scrutiny have a nearly 30 percent higher chance of success than those under intermediate scrutiny).

as part of our Constitution will be much more difficult to undermine than is legislative action.<sup>74</sup> As Justice Ginsburg wrote in 1978 as a law professor and practitioner, “[i]n the event of legislative default, the courts will have an unassailable basis for applying the bedrock principle: All men and all women are created equal.”<sup>75</sup> Third, the second section of the Equal Rights Amendment includes a provision through which Congress could take further means to enforce the prohibition against equal rights being denied on the basis of sex. Rather than acting via piecemeal legislation anchored in the Commerce or Equal Protection Clauses,<sup>76</sup> Congress will be able to pass more robust protections specifically to enforce the constitutional guarantee of sex equality. And these benefits need not be limited to cisgender, heterosexual women. An inclusive Equal Rights Amendment’s prohibition against denial of equal rights “on the basis of sex, should prohibit denial of equal rights to individuals of all gender identities and sexual orientation.”<sup>77</sup>

Finally, the Amendment will serve an expressive function. The Constitution is the embodiment of American values. Much like the Founders elevated the rights to freedom of speech and religion and preserved them among our nation’s highest values in the First Amendment, the Equal Rights Amendment will enshrine sex equality among our nation’s highest values. If the Equal Rights Amendment is added to the Constitution, it will send the message to our nation’s

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<sup>74</sup> To repeal an amendment, another constitutional amendment must be ratified. *See, e.g.*, U.S. Const. amend. XXI (repealing the Eighteenth Amendment).

<sup>75</sup> Ruth Bader Ginsburg, *The Equal Rights Amendment is the Way*, 1 Harv. Women’s L.J. 19, 21 (1978).

<sup>76</sup> *See, e.g., United States v. Morrison*, 529 U.S. 598, 617, 627 (2000) (invalidating the civil remedy provision in the Violence Against Women Act on the basis that Congress had exceeded its authority under the Commerce Clause and the Equal Protection Clause).

<sup>77</sup> *See, e.g., Bostock v. Clayton Cty.*, No. 17-1618, 2020 WL 3146686 (U.S. June 15, 2020) (“Because discrimination on the basis of homosexuality or transgender status requires an employer to intentionally treat individual employees differently because of their sex, an employer who intentionally penalizes an employee for being homosexual or transgender also violates Title VII.”).

young people that women and Americans beyond the gender binary not only have the right to vote, but are also fully equal members of American society.

**B. The Equal Rights Amendment Will Further Economic Equality.**

Equal opportunity in the workplace for equal wages and for families also has been and remains a core goal of the equal rights movement. In the 1970s and 1980s, members of Congress focused on the ways in which the Equal Rights Amendment would help to eliminate employment discrimination and to advance efforts for equal pay.<sup>78</sup> In 1982, Representative William Ratchford of Connecticut explained, “[t]oday in the workplace, women across the Nation earn only 59 cents for each dollar men earn in the same jobs.”<sup>79</sup> Nearly forty years later, women in the United States are on average paid 82 cents for each dollar paid to men.<sup>80</sup> Although the pay gap has narrowed since 1980, it has plateaued for the last fifteen years.<sup>81</sup>

The persistence of the pay gap is evidence of the need for overlapping protections to prevent inequality on the basis of sex, as nowhere is the intersectional nature of compounding inequalities more cleanly demonstrated than with the gender pay gap. Today, Black women are paid on average 62 cents for every dollar paid to every dollar paid to white, non-Hispanic men; Native American women are paid 57 cents to the dollar; and Latina women are paid 54 cents to the dollar.<sup>82</sup> For this reason, Virginia Delegate Jennifer Carroll Foy stated that she believes the Equal Rights Amendment has a far-reaching impact on women of color and other groups due to

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<sup>78</sup> See, e.g., 97 Cong. Rec. 16118 (July 14, 1982) (statement by Rep. Ratchford of Connecticut).

<sup>79</sup> *Id.*

<sup>80</sup> *America’s Women and the Wage Gap Fact Sheet*, Nat’l P’ship for Women & Families at 1 (Mar. 2020), <https://bit.ly/3fKa5wv> [hereinafter Nat’l P’ship for Women & Families Fact Sheet].

<sup>81</sup> Nikki Graf et al., *The Narrowing, But Persistent, Gender Gap in Pay*, Pew Research Center (Mar. 22, 2019), <https://pewrsr.ch/2USizJX> [hereinafter Pew Gender Gap Facts].

<sup>82</sup> See Nat’l P’ship for Women & Families Fact Sheet.

inequality in pay, and that “adding the amendment to the Constitution would be the anchor when it comes to passing equal pay legislation.”<sup>83</sup> The Equal Rights Amendment’s protections have long been championed by diverse advocates in federal and state legislatures—such as Shirley Chisholm, Patsy Takemoto Mink, Henrietta Johnson, Patricia Saiki, Barbara Jordan, Walter Fauntroy, and many others—who understood that “[d]iscrimination against women in our country is compounded by the decadence of racism,” and that the Amendment provides a vital opportunity to uplift women of color.<sup>84</sup>

Transgender and LGBTQIA+ individuals are also paid less than their heterosexual and cisgender counterparts. Earnings for male-to-female transgender workers can fall by nearly one-third after their gender transitions.<sup>85</sup> Similarly, “[w]omen in same-sex couples lacking a college degree and those with a disability are at increased likelihood of living in poverty compared to similar women in married opposite-sex couples and compared to men,” and women ages 65 and above “in same-sex couples have nearly twice the poverty rate of older married opposite-sex couples.”<sup>86</sup> These pay gaps are particularly pronounced for non-white same-sex couples.<sup>87</sup> As

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<sup>83</sup> Christopher Brown, *100 Years After Women Earned Right to Vote, Will Va. Legislators Pass Equal Rights Amendment?*, WHSV 3 (Dec. 11, 2019), <https://bit.ly/37DncfS>.

<sup>84</sup> 98 Cong. Rec. 32790 (Nov. 15, 1983) (Del. Fauntroy of the District of Columbia); *see also* 92 Cong. Rec. 35314 (Oct. 6, 1971) (Rep. Shirley Chisholm of New York); Zoë Read, *Equal Rights Amendment one step closer in Delaware*, WHYY (Jan. 10, 2019), <https://bit.ly/3ecYaqp>; *Patricia F. Saiki Papers*, University of Hawai‘i at Mānoa, <https://bit.ly/2Y77h6m> (last visited May 13, 2020); *Chronology of the Equal Rights Amendment, 1923–1996*, Nat’l Org. for Women, <https://bit.ly/37O5fLX> (noting that every Black legislator in Florida, Illinois, North Carolina and Oklahoma voted for ratification in 1982).

<sup>85</sup> Catherine Rampell, *Before That Sex Change, Think About Your Next Paycheck*, N.Y. Times (Sept. 25, 2008), <https://is.gd/bPqQGw>.

<sup>86</sup> Center for American Progress, *Paying an Unfair Price: The Financial Penalty for LGBT Women in America* at 4 (2015), <https://bit.ly/3d7ORXl>.

<sup>87</sup> *See id.*

transgender legislator and Equal Rights Amendment advocate Danica Roem said, “[t]he word ‘women’ is conspicuously absent from the ERA, which instead forbids discrimination on the basis of ‘sex.’ . . . It holds ample potential to protect all marginalized genders—binary and non-binary alike—and sexual minorities.”<sup>88</sup>

These numbers cannot be dismissed as merely the result of occupational choices. Lower pay for women than men is present across all industries, within occupations, regardless of education level, and regardless of parental status.<sup>89</sup> Further, as women age, the gap widens.<sup>90</sup> Young people want to build a better future for themselves, one in which they will not be unfairly disadvantaged by decreasing returns for their labor based on their gender or gender-presentation.

The economic challenges facing women are often greater also because they continue to confront societal gender stereotypes, resulting in greater responsibility for household tasks than men.<sup>91</sup> Even among households where both partners work, women on average handle more household chores and are more likely to be the partner who takes time off from work for childcare.<sup>92</sup> More than 75 percent of caregivers are women, and women spend significantly more time on caretaking than men do.<sup>93</sup>

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<sup>88</sup> Danica Roem & Kate Kelly, *The Equal Rights Amendment Can’t Be Defeated by Anti-Trans Scare Tactics*, Teen Vogue (Jan. 16, 2020), <https://bit.ly/2N7xFXK>.

<sup>89</sup> Nat’l P’ship for Women & Families Fact Sheet.

<sup>90</sup> See Pew Gender Gap Facts.

<sup>91</sup> See Sarah Thebaud et al., *Good Housekeeping, Great Expectations: Gender and Housework Norms*, Sage J. (2019), <https://bit.ly/37EluLk>.

<sup>92</sup> See Shruti Jolly et al., *Gender Differences in Time Spent on Parenting and Domestic Responsibilities by High-Achieving Young Physician-Researchers*, *Ann Intern Med.* (2014), <https://bit.ly/37DWELJ>; Aliya Hamid Rao, *Even Breadwinning Wives Don’t Get Equality at Home*, *The Atlantic* (May 12, 2019), <https://bit.ly/2N56TPz>.

<sup>93</sup> Courtney Connley, *How Women Could Be Uniquely Impacted by the Coronavirus*, *CNBC Make It* (Mar. 18, 2020), <https://cnb.cx/2Y9P34r>.

Recent events have only highlighted how easily the tenuous gains made by women in the economic realm can be reversed. The devastating effects of the COVID-19 pandemic on the U.S. economy have been especially felt by women. Almost two-thirds of minimum wage workers in the United States are women,<sup>94</sup> and the industries hit most by the pandemic, namely leisure, hospital, education, and healthcare, are “disproportionately nonwhite and female.”<sup>95</sup> Many women have found themselves laid off, limited to reduced hours, or having to take time off of their jobs to care for children who can no longer go to daycare or school.<sup>96</sup> These effects are particularly pronounced for women of color, who are disproportionately disadvantaged by the pandemic.<sup>97</sup> The most recent unemployment rate was 15.5 percent for women, and 13 percent for men.<sup>98</sup> At the same time, with most schools and daycare across the United States closed, many people have found themselves slotted into caretaker roles, which disproportionately affects women.<sup>99</sup>

The disproportionate impact of unexpected events like COVID-19 underscores why lasting, structural change is vital to establish and protect equal rights and opportunities regardless of gender. Today’s young people will graduate and enter the workforce in a world where women’s social and economic gains have been rocked by an unprecedented pandemic and legal gains have

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<sup>94</sup> Marianne Schnall, *Putting A Gender Lens On COVID-19: Thought Leaders Weigh In*, Forbes (Apr. 17, 2020), <https://bit.ly/2NcccMZ>.

<sup>95</sup> Alisha Haridasani Gupta, *For the First Time in Decades, This Recession Is a ‘Shecession’*, N.Y. Times (May 9, 2020), <https://nyti.ms/37DX4Sj>.

<sup>96</sup> Anna North, *Every Aspect of the Coronavirus Pandemic Exposes America’s Devastating Inequalities*, Vox (Apr. 10, 2020), <https://bit.ly/2N7a8WE>.

<sup>97</sup> Jocelyn Frye, *On the Frontlines at Work and at Home: The Disproportionate Economic Effects of the Coronavirus Pandemic on Women of Color*, Center for American Progress (Apr. 23, 2020), <https://ampr.gs/2N8qLl0>.

<sup>98</sup> U.S. Bureau of Labor Statistics, *Employment Summary Report* (May 8, 2020), <https://bit.ly/3eamHMJ>.

<sup>99</sup> Schnall, *Putting A Gender Lens On COVID-19: Thought Leaders Weigh In*.

been rolled back by federal government policy changes. These times of extreme uncertainty highlight the need for a constitutional foundation of equality. While the Equal Rights Amendment by itself will not rectify all inequality, it will provide the foundation upon which our generation can build a future of equal opportunity. The Equal Rights Amendment's enforcement clause will allow legislators to pass more robust protections and build a solid infrastructure of legislation to protect the rights of women and people across all marginalized genders.

### CONCLUSION

Young people have played a critical role in the movement for the Equal Rights Amendment for more than a century. And we remain leaders in the movement for ratification and addition of the Amendment to the Constitution today. We stand on the shoulders of our predecessors in supporting the fight for an express guarantee of gender equality in the Constitution, to show our nation's youth and the generations to come that women are indeed equally valued members of American life. This Court should grant Plaintiffs' request for relief by declaring that the Equal Rights Amendment has become the 28th Amendment to the U.S. Constitution and ordering the Archivist to publish the Equal Rights Amendment in the Constitution.

June 29, 2020

Kathleen Kelly (D.C. Bar No. 1014921)  
GENERATION RATIFY  
P.O. Box 3145  
235 N Glebe Rd.  
Arlington, VA 22201  
United States

Respectfully submitted,

/s/ Lauren Moxley  
Lauren Moxley (D.C. Bar No. 1046809)  
Beth S. Brinkmann (D.C. Bar No. 477771)  
Megan C. Keenan (D.C. Bar No. 1672508)  
COVINGTON & BURLING  
One CityCenter  
850 Tenth Street, NW  
Washington, DC 20001-4956  
(202) 662-6000

*Counsel for Amici Curiae*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 29, 2020, the foregoing document was filed with the Clerk of the Court, using the CM/ECF system, causing it to be served on all counsel of record.

Dated: June 29, 2020

/s Lauren Moxley  
Lauren Moxley