SJRCA4 is legally before the Illinois General Assembly

Legal Precedent

- Congress may determine the rules for ratification beyond those established in Article V of the U.S. Constitution. *Coleman v. Miller*, 307 US 433 (1939) and *Dillion v. Gloss*, 256 US 368 (1921). The Supreme Court overruled a lower court's attempt to invalidate ongoing ratification efforts after the original deadline *Idaho v. Freeman* 455 US 918 (1982).

- The seven-year deadline is in the resolution's preamble, and not in the proposed amendment passed by Congress in 1972, or the text ratified by 36 states.

- Time limits are a new custom. The first deadline was used in 1933 for the 21st Amendment (repeal of prohibition).

Historical Precedent

- In 1992, Congress declared the 27th Amendment ratified, despite a 203-year ratification process.

- In 1870, Congress declared the 15th Amendment ratified, despite the New York state's rescission. The 15th Amendment extended the vote to all citizens (except women).

- In 1978, Congress voted to extend the ERA deadline to 1982. Therefore, it can again.

Current Precedent

- States continue to take steps toward ratification. In 2017 alone, legislators in Arizona, Florida, North Carolina and Utah introduced resolutions to approve the ERA.

- Nevada ratified on March 22, 2017.

- In 2014, resolutions passed in the Virginia Senate and Illinois Senate.

- Pending in Congress, S.J.Res. 5 and H.J.Res. 53 would remove the deadline.

Abortion and the Equal Rights Amendment

Roe v. Wade, and related case law, are based on the right to privacy. Congress passed the Equal Rights Amendment (ERA) in 1972, a year before the *Roe v. Wade* decision.
The language of the ERA was drafted decades earlier in 1923.

Alice Paul was a leading suffragette. Later, she became a lawyer and wrote the Equal Rights Amendment. Miss Paul remained a tireless advocate for women—living steps from the Capitol—until her death in 1977. That house is now a National Park.

"Abortion is the ultimate exploitation of women"

is a quote attributed to Alice Paul. If a pro-life lawyer wrote the Amendment, and dedicated her life to working for its ratification, how can it be an abortion measure?

Abortion is not sex discrimination
States agree. Ten states with a "little ERA" prohibit public funding of abortions, namely:

Colorado	New Hampshire
Florida	Pennsylvania
Iowa	Texas
Louisiana	Utah
Nebraska	Virginia

In three more "little ERA" states, courts adopted the federal precedent (privacy) to require public funding of abortions. In Illinois, our court also refused to apply our "little ERA" to strike down a parental notice law.

The court found no connection, writing:
"In the case at bar, we fail to see how the Act creates a sex-based classification or how the alleged discrimination against pregnant minors who choose an abortion is in any way related to their gender." *Hope Clinic for Women, Ltd. v. Flores* (2013)

In other words, <u>there is no connection between abortion and sex discrimination in Illinois or under federal law</u>.

In the fifty years since *Roe v. Wade*, only Connecticut and New Mexico have connected sex discrimination with abortion, likely because those laws use much different language. Note that the Illinois ERA is nearly verbatim to the federal version.

Under federal law, pregnancy is not related to gender
In pregnancy-related cases, the Supreme Court has not found sex-discrimination. See, *Geduldig v. Aiello*. Even Justice Scalia ridiculed his colleagues in *Young v. UPS* for declining to interpret the Pregnancy Discrimination Act as a variation of sex discrimination.

Your record on HB40 and Emergency Contraception underscores your position on abortion, but your vote for the ERA will show your commitment to fairness and equity.