

## WHY DO WE NEED AN AMENDMENT PROCESS?

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The Constitution of the United States was ratified in 1789, making it the oldest constitution in the modern world.

As the United States has continued to grow and face unique challenges brought on through modern warfare, alliances, and technology, some critics have argued that the Framers of the Constitution could not have foreseen the changes the United States would experience. What can we do to update the Constitution to address these new issues? Well, the Framers thought of a solution: citizens could add changes to the Constitution.

The Framers added a process for amending, or changing, the Constitution in Article V. Since 1789, the United States has added 27 amendments to the Constitution. An amendment is a change to the Constitution. The first ten amendments to the Constitution became known as the Bill of Rights. These first amendments were designed to protect individual rights and liberties, like the right to free speech and the right to trial by jury.

### Article V

Article V describes the process for amending the Constitution. But the Framers intended for the amendment process to be difficult: although the federal government could add amendments, three-fourths of states have to ratify every amendment.

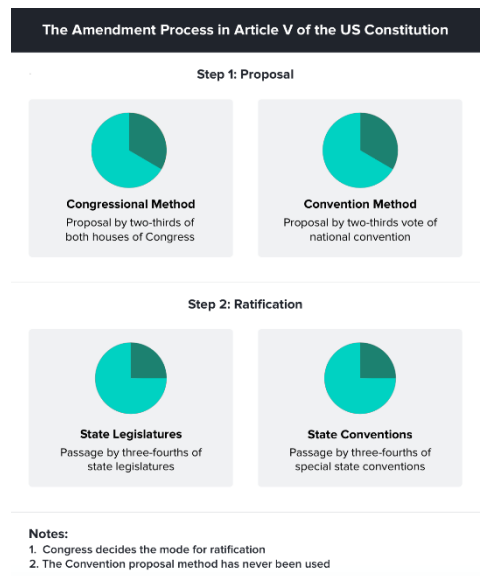
“The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents 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; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.”

-Article V, The United States Constitution, 1787

There are two avenues for amending the Constitution: the congressional proposal method and the convention method. In the congressional proposal method, two-thirds of both chambers of Congress must propose an amendment. The proposed amendment must then be ratified by three-fourths of state conventions or state legislatures, as chosen by Congress.

Congress has proposed all 27 amendments to the Constitution of the United States. 26 of these amendments were passed by three-fourths of state legislatures and one amendment was passed by three-fourths of state conventions.

In the state convention method, two-thirds of states ask Congress to organize a convention. The amendment is proposed at this meeting. As in the congressional proposal method, the proposed amendment then must be ratified by three-fourths of state conventions or state legislatures, as chosen by Congress. The state convention method has never been used to introduce an amendment.



## **Challenges to the amendment process**

Between 1789 and 2014, over 11,000 amendments have been proposed; however, only 27 amendments have been ratified. Why is it so hard for proposed amendments to receive support for final ratification? A few roadblocks are standing in the way.

First, every amendment must receive support from three-fourths of state conventions or state legislatures. It's incredibly difficult to get that many states to agree on a permanent change to the Constitution.

Take, for example, the Equal Rights Amendment, or ERA. The ERA was introduced in 1923. It finally passed Congress in 1972 and was sent to the states for ratification. The ERA was designed to guarantee equal rights for all citizens regardless of sex. It fell three states short of ratification and so was not added to the Constitution.

Second, for an amendment to be passed through the congressional proposal method, two-thirds of Congress must propose the amendment. To introduce a new amendment the two parties must cooperate, as no one party has controlled two-thirds of both the House of Representatives and the Senate. With each party supporting different ideological goals, getting two-thirds of Congress to agree on a change to the Constitution is nearly impossible without some level of cooperation.

The process is so difficult that it could take years before the US Constitution has its 28th amendment. Some amendments continue to pop up in Congress, including an amendment requiring Congress to pass a balanced budget, an amendment setting term limits for members of Congress, and amendments defining who can get married.

What do you think the 28th amendment will be?

## **Food for thought**

- Besides the amendment process, how can the federal government change the Constitution?
- Why do you think the United States has never had an amendment pass through the convention method?