

**SUPREME COURT OF FLORIDA**

ADVISORY OPINION TO THE  
ATTORNEY GENERAL RE:  
ADULT USE OF MARIJUANA

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CASE NO. SC19-2116

**Motion to Dismiss**

The Florida Senate requests that the Court dismiss the petition in this case for want of jurisdiction and would show the following:

1. On December 19, 2019, the Attorney General filed a request for an advisory opinion on the above captioned case pursuant to § 16.061, Florida Statutes.
2. The Attorney General did this upon receipt of the initiative petition from the Secretary of State, who certified the Initiative “had met the registration, submission, and signature criteria set forth in section 15.21 Florida Statutes.”
3. Section 15.21(3), Florida Statutes, sets forth the signature criteria and requires the sponsor to have “[o]btained a letter from the Division of Elections confirming that the sponsor has submitted to the appropriate supervisors for verification, and the supervisors have verified, forms signed and dated equal to 10 percent of the number of electors statewide and in at least one-fourth of the congressional districts required by s. 3, Art. XI of the State Constitution.”
4. Article XI, section 3 of the Florida Constitution provides:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those

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limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the *last preceding election in which presidential electors were chosen*. (emphasis added).

5. On January 13, 2020, the sponsor Make it Legal Florida announced they would not be seeking ballot placement until the 2022 election.<sup>1</sup>
6. As of January 13, 2020, they only had 299,216 of the required 766,200 signatures.
7. The initial request by the Attorney General was for a review for placement on the 2020 ballot. However, since the initiative is not going to meet the criteria for placement on the 2020 ballot, such a review is moot.
8. The criteria for placement on the 2022 ballot is not yet known because there will be an intervening presidential election in 2020. Therefore, this matter is not yet ripe for review until the signature criteria can be determined and it is verified that the sponsor has met the threshold for 2022 ballot review.
9. Section 100.371, Florida Statutes, requires signatures to be dated when made and they are only valid for two years following such date.
10. It is conceivable that some of the signatures verified by the Division of Elections which supported this initial review will no longer be valid after the new signature

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<sup>1</sup> <https://www.miamiherald.com/news/local/marijuana/article239239383.html>

verification requirements can be calculated according to the 2020 presidential election.

11. Article V, section 3(b)(10) of the Florida Constitution provides the Court “[s]hall, when requested by the attorney general pursuant to the provisions of Section 10 of Article IV, render an advisory opinion of the justices, addressing issues as provided by general law.”
12. General law currently requires the sponsor to obtain verification of signatures equal to 10% of 8% of the votes cast in the presidential election preceding the initiative appearing on the ballot. Since the presidential election preceding the 2022 election has not yet happened, it is not possible for an initiative to meet the criteria in § 15.21(3), Florida Statutes.
13. It should also be noted that in the interim, not only could the ballot eligibility and review requirements be amended as proposed legislation would do, *see e.g.* Senate Bill 1794, but there could also be substantive changes to federal and state marijuana laws, *see e.g.* Senate Bill 1860, all of which could impact the Court’s review of this Initiative.

Based on the foregoing, the Florida Senate moves this court dismiss the case.

Respectfully submitted,

/s/  
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*Counsels for the Florida Senate and  
President Bill Galvano*

### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been filed electronically with the Clerk of the Court via the Florida eFiling Portal which will serve all parties of record this 13th day of January 2020.

s/ Jeremiah Hawkes