

Patient groups ask court to invalidate Utah's medical marijuana compromise

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Ben Lockhart

December 6, 2018

SALT LAKE CITY — Two patient advocacy groups are suing to invalidate the medical marijuana compromise bill passed by the Utah Legislature Monday that supersedes the voter-approved Proposition 2.

The filing in 3rd District Court late Wednesday asks the court to rule the bill violates the Utah Constitution and to compel the state to enforce Proposition 2 instead.

Together for Responsible Use and Cannabis Education, or TRUCE, and the Epilepsy Association of Utah are the lawsuit's plaintiffs. TRUCE founder Christine Stenquist and Doug Rice, interim president of the epilepsy group, are also listed as plaintiffs.

Kristin Murphy, Deseret News

Gary Clark yells "Do the right thing!" before a special session of the Utah State Legislature to address the Utah Medical Cannabis Act at the Capitol in Salt Lake City on Monday, Dec. 3, 2018.

The lawsuit names Gov. Gary Herbert and Dr. Joseph Miner, executive director of the Utah Department of Health, as defendants. Herbert's office and the health department declined to comment Thursday.

Stenquist and Rice have been critical of the private negotiations that led to key players for and against Proposition 2 to agree to support the compromise bill.

Their lawsuit argues the bill "unconstitutionally undermines or entirely defeats core purposes of Proposition 2" and "severely reduces or eliminates" some patients' medical marijuana access.

Stenquist said the lawsuit will help answer the question, "Is the initiative process in Utah just a suggestion box?"

TRUCE has raised about \$11,500 via a GoFundMe webpage to help with legal costs for the lawsuit.

"We've received a groundswell of support from people," Rice said.

Steve Griffin, Deseret News

Sen. Evan Vickers, R-Cedar City, right, shares a lighter moment with Sen. Jim Dabakis, D-Salt Lake City after the Senate passed a wide-ranging medical marijuana bill replacing the ballot initiative that voters approved Nov. 6, 2018 during special session at the State Capitol in Salt Lake City on Monday, Dec. 3, 2018.

Several weeks before Election Day, Utah House Speaker Greg Hughes, R-Draper, convened private talks between ardent supporters and opponents of Proposition 2.

The Utah Patients Coalition, the campaign that promoted and helped author Proposition 2; Libertas Institute, the campaign's largest in-state donor; the Utah Medical Association, a fierce critic of the initiative; and The Church of Jesus Christ of Latter-day Saints, another strong critic of the measure, all agreed to support the contents of a sweeping medical marijuana compromise bill following dozens of hours of negotiations.

Those groups contended the measure balanced creation of legitimate access to medical marijuana while also involving medical providers more with patients and guarding against recreational use.

The bill, sponsored by Hughes, passed overwhelmingly at the Utah Legislature during a special session Monday. Herbert signed the bill later that day.

The lawsuit claims passing the bill violated Article I Section 4 of the Utah Constitution, which states "there shall be no union of church and state, nor shall any church dominate the state or interfere with its functions."

Kristin Murphy, Deseret News

Janée Gillette, physicians assistant, writes notes to her representatives in support of Prop. 2 before a special session of the Utah State Legislature at the Capitol in Salt Lake City on Monday, Dec. 3, 2018.

"The Legislature, at the behest of (The Church of Jesus Christ of Latter-day Saints) and as a result of the church's domination and interference, voted to dramatically undermine the core purposes of Proposition 2," the lawsuit says.

When attorney and former Salt Lake City Mayor Rocky Anderson published a letter threatening legal action regarding Proposition 2 last month, the church issued a statement saying it was "broad community engagement" that made the compromise possible, and that it "stand(s) behind" the consensus reached by supporters and detractors of Proposition 2.

"As members of the community, we have worked from the outset with medical professionals, law enforcement, educators and many other groups and prominent community leaders to seek the best for the people of Utah, to provide relief from human pain and suffering, especially where children are concerned," church spokesman Doug Anderson said at the time.

"Broad community engagement was the reason a workable, beneficial and safer medical cannabis program was put together at the direction of state leadership."

Responding to comments about the church's role in private talks regarding the compromise, Hughes said on the House floor Monday: "I make no apologies for those that have weighed in."

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He added, "We would want those who enjoy freedom of speech to be able to speak their minds and speak to the things they think ... impact their congregants."

The lawsuit also says the compromise bill violates Article VI Section 1 of the Utah Constitution, which details Utahns' authority to enact laws via initiative.

The state's constitution, the complaint says, indicates "the people vested the Utah Legislature with legislative power, but the people also retained their power to legislate through ... initiative."