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CS/CS/HB 1069

2023 Legislature

1  
 2 An act relating to education; amending s. 1000.21,  
 3 F.S.; defining the term "sex" for the Florida Early  
 4 Learning-20 Education Code; creating s. 1000.071,  
 5 F.S.; requiring specified policies relating to a  
 6 person's sex at certain educational institutions;  
 7 providing applicability; prohibiting employees,  
 8 contractors, and students of such educational  
 9 institutions from being required to use, from  
 10 providing, and from being asked to provide certain  
 11 titles and pronouns; prohibiting students from being  
 12 penalized or subjected to certain treatment for not  
 13 providing certain titles and pronouns; authorizing the  
 14 State Board of Education to adopt rules; amending s.  
 15 1001.42, F.S.; prohibiting classroom instruction on  
 16 sexual orientation or gender identity from occurring  
 17 in prekindergarten through grade 8, rather than  
 18 kindergarten through grade 3; providing an exception;  
 19 providing requirements if such instruction is provided  
 20 in grades 9 through 12; providing that such  
 21 prohibition applies to charter schools; requiring  
 22 school districts to post specified policies on their  
 23 websites; amending s. 1003.42, F.S.; requiring all  
 24 materials used for specified instruction relating to  
 25 reproductive health to be approved by the Department

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26 | of Education; amending s. 1003.46, F.S.; providing  
 27 | additional requirements for certain instruction  
 28 | regarding human sexuality; requiring the department to  
 29 | approve specified instructional materials; amending s.  
 30 | 1006.28, F.S.; providing that district school boards  
 31 | are responsible for materials used in classroom  
 32 | libraries; requiring that a specified objection form  
 33 | and district school board process meet certain  
 34 | requirements; providing requirements for materials  
 35 | used in a classroom library; revising the criteria a  
 36 | parent or resident must meet to object to certain  
 37 | materials used in the classroom; requiring certain  
 38 | classroom materials to be removed within a specified  
 39 | time period and be unavailable to certain students  
 40 | until the resolution of certain objections; providing  
 41 | that parents have the right to read passages from  
 42 | specified materials; requiring the discontinuation of  
 43 | specified materials under certain circumstances;  
 44 | providing requirements for certain meetings of school  
 45 | district committees relating to instructional  
 46 | materials; requiring the Commissioner of Education to  
 47 | appoint a special magistrate under certain  
 48 | circumstances; providing requirements for and duties  
 49 | of the special magistrate; requiring the State Board  
 50 | of Education to approve or reject the special

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51 magistrate's recommendation within a specified  
 52 timeframe; requiring school districts to bear the  
 53 costs of the special magistrate; requiring the State  
 54 Board of Education to adopt rules; revising certain  
 55 district school board procedures relating to library  
 56 media center collections; revising elementary school  
 57 requirements relating to materials in specified  
 58 libraries; requiring district school boards to adopt  
 59 and publish a specified process relating to student  
 60 access to certain materials; revising district school  
 61 board reporting requirements relating to materials  
 62 which received certain objections; requiring school  
 63 principals to communicate to and notify parents of  
 64 certain procedures and processes relating to  
 65 instructional materials; reenacting ss. 1000.05(2),  
 66 (3), (4)(a), (5), and (6)(d), 1001.453(2)(c),  
 67 1002.42(3)(a), 1003.27(2)(b) and (c), 1003.42(3)(a),  
 68 (c), (e), and (f), 1004.43(2), 1006.205(2)(b) and (3),  
 69 1009.23(7), 1009.24(10)(b), 1009.983(6),  
 70 1009.986(3)(e), and 1014.05(1)(c), (d), and (f), F.S.,  
 71 to incorporate the amendment made to s. 1000.21, F.S.,  
 72 in references thereto; providing severability;  
 73 providing an effective date.

74  
 75 Be It Enacted by the Legislature of the State of Florida:

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76  
77 Section 1. Subsection (9) is added to section 1000.21,  
78 Florida Statutes, to read:

79 1000.21 Systemwide definitions.—As used in the Florida  
80 Early Learning-20 Education Code:

81 (9) "Sex" means the classification of a person as either  
82 female or male based on the organization of the body of such  
83 person for a specific reproductive role, as indicated by the  
84 person's sex chromosomes, naturally occurring sex hormones, and  
85 internal and external genitalia present at birth.

86 Section 2. Section 1000.071, Florida Statutes, is created  
87 to read:

88 1000.071 Personal titles and pronouns.—

89 (1) It shall be the policy of every public K-12  
90 educational institution that is provided or authorized by the  
91 Constitution and laws of Florida that a person's sex is an  
92 immutable biological trait and that it is false to ascribe to a  
93 person a pronoun that does not correspond to such person's sex.  
94 This section does not apply to individuals born with a  
95 genetically or biochemically verifiable disorder of sex  
96 development, including, but not limited to, 46, XX disorder of  
97 sex development; 46, XY disorder of sex development; sex  
98 chromosome disorder of sex development; XX or XY sex reversal;  
99 and ovotesticular disorder.

100 (2) An employee, contractor, or student of a public K-12

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101 educational institution may not be required, as a condition of  
 102 employment or enrollment or participation in any program, to  
 103 refer to another person using that person's preferred personal  
 104 title or pronouns if such personal title or pronouns do not  
 105 correspond to that person's sex.

106 (3) An employee or contractor of a public K-12 educational  
 107 institution may not provide to a student his or her preferred  
 108 personal title or pronouns if such preferred personal title or  
 109 pronouns do not correspond to his or her sex.

110 (4) A student may not be asked by an employee or  
 111 contractor of a public K-12 educational institution to provide  
 112 his or her preferred personal title or pronouns or be penalized  
 113 or subjected to adverse or discriminatory treatment for not  
 114 providing his or her preferred personal title or pronouns.

115 (5) The State Board of Education may adopt rules to  
 116 administer this section.

117 Section 3. Paragraph (c) of subsection (8) of section  
 118 1001.42, Florida Statutes, is amended to read:

119 1001.42 Powers and duties of district school board.—The  
 120 district school board, acting as a board, shall exercise all  
 121 powers and perform all duties listed below:

122 (8) STUDENT WELFARE.—

123 (c)1. In accordance with the rights of parents enumerated  
 124 in ss. 1002.20 and 1014.04, adopt procedures for notifying a  
 125 student's parent if there is a change in the student's services

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126 or monitoring related to the student's mental, emotional, or  
 127 physical health or well-being and the school's ability to  
 128 provide a safe and supportive learning environment for the  
 129 student. The procedures must reinforce the fundamental right of  
 130 parents to make decisions regarding the upbringing and control  
 131 of their children by requiring school district personnel to  
 132 encourage a student to discuss issues relating to his or her  
 133 well-being with his or her parent or to facilitate discussion of  
 134 the issue with the parent. The procedures may not prohibit  
 135 parents from accessing any of their student's education and  
 136 health records created, maintained, or used by the school  
 137 district, as required by s. 1002.22(2).

138 2. A school district may not adopt procedures or student  
 139 support forms that prohibit school district personnel from  
 140 notifying a parent about his or her student's mental, emotional,  
 141 or physical health or well-being, or a change in related  
 142 services or monitoring, or that encourage or have the effect of  
 143 encouraging a student to withhold from a parent such  
 144 information. School district personnel may not discourage or  
 145 prohibit parental notification of and involvement in critical  
 146 decisions affecting a student's mental, emotional, or physical  
 147 health or well-being. This subparagraph does not prohibit a  
 148 school district from adopting procedures that permit school  
 149 personnel to withhold such information from a parent if a  
 150 reasonably prudent person would believe that disclosure would

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151 result in abuse, abandonment, or neglect, as those terms are  
 152 defined in s. 39.01.

153 3. Classroom instruction by school personnel or third  
 154 parties on sexual orientation or gender identity may not occur  
 155 in prekindergarten ~~kindergarten~~ through grade 8, except when  
 156 required by ss. 1003.42(2)(n)3. and 1003.46. If such instruction  
 157 is provided in grades 9 through 12, the instruction must be 3 or  
 158 ~~in a manner that is not~~ age-appropriate or developmentally  
 159 appropriate for students in accordance with state standards.  
 160 This subparagraph applies to charter schools.

161 4. Student support services training developed or provided  
 162 by a school district to school district personnel must adhere to  
 163 student services guidelines, standards, and frameworks  
 164 established by the Department of Education.

165 5. At the beginning of the school year, each school  
 166 district shall notify parents of each health care service  
 167 offered at their student's school and the option to withhold  
 168 consent or decline any specific service in accordance with s.  
 169 1014.06. Parental consent to a health care service does not  
 170 waive the parent's right to access his or her student's  
 171 educational or health records or to be notified about a change  
 172 in his or her student's services or monitoring as provided by  
 173 this paragraph.

174 6. Before administering a student well-being questionnaire  
 175 or health screening form to a student in kindergarten through

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176 grade 3, the school district must provide the questionnaire or  
177 health screening form to the parent and obtain the permission of  
178 the parent.

179 7. Each school district shall adopt procedures for a  
180 parent to notify the principal, or his or her designee,  
181 regarding concerns under this paragraph at his or her student's  
182 school and the process for resolving those concerns within 7  
183 calendar days after notification by the parent.

184 a. At a minimum, the procedures must require that within  
185 30 days after notification by the parent that the concern  
186 remains unresolved, the school district must either resolve the  
187 concern or provide a statement of the reasons for not resolving  
188 the concern.

189 b. If a concern is not resolved by the school district, a  
190 parent may:

191 (I) Request the Commissioner of Education to appoint a  
192 special magistrate who is a member of The Florida Bar in good  
193 standing and who has at least 5 years' experience in  
194 administrative law. The special magistrate shall determine facts  
195 relating to the dispute over the school district procedure or  
196 practice, consider information provided by the school district,  
197 and render a recommended decision for resolution to the State  
198 Board of Education within 30 days after receipt of the request  
199 by the parent. The State Board of Education must approve or  
200 reject the recommended decision at its next regularly scheduled



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201 meeting that is more than 7 calendar days and no more than 30  
 202 days after the date the recommended decision is transmitted. The  
 203 costs of the special magistrate shall be borne by the school  
 204 district. The State Board of Education shall adopt rules,  
 205 including forms, necessary to implement this subparagraph.

206 (II) Bring an action against the school district to obtain  
 207 a declaratory judgment that the school district procedure or  
 208 practice violates this paragraph and seek injunctive relief. A  
 209 court may award damages and shall award reasonable attorney fees  
 210 and court costs to a parent who receives declaratory or  
 211 injunctive relief.

212 c. Each school district shall adopt and post on its  
 213 website policies to notify parents of the procedures required  
 214 under this subparagraph.

215 d. Nothing contained in this subparagraph shall be  
 216 construed to abridge or alter rights of action or remedies in  
 217 equity already existing under the common law or general law.

218 Section 4. Paragraph (b) of subsection (1) of section  
 219 1003.42, Florida Statutes, is amended to read:

220 1003.42 Required instruction.—

221 (1)

222 (b) All ~~instructional materials, as defined in s.~~  
 223 ~~1006.29(2)~~, used to teach reproductive health or any disease,  
 224 including HIV/AIDS, its symptoms, development, and treatment, as  
 225 part of the courses referenced in subsection (5), must be

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226 annually approved by the department ~~a district school board in~~  
 227 ~~an open, noticed public meeting.~~

228 Section 5. Subsection (2) of section 1003.46, Florida  
 229 Statutes, is amended to read:

230 1003.46 Health education; instruction in acquired immune  
 231 deficiency syndrome.—

232 (2) Throughout instruction in acquired immune deficiency  
 233 syndrome, sexually transmitted diseases, or health education,  
 234 when such instruction and course material contains instruction  
 235 in human sexuality, a school shall:

236 (a) Classify males and females as provided in s.  
 237 1000.21(9) and teach that biological males impregnate biological  
 238 females by fertilizing the female egg with male sperm; that the  
 239 female then gestates the offspring; and that these reproductive  
 240 roles are binary, stable, and unchangeable.

241 (b) ~~(a)~~ Teach abstinence from sexual activity outside of  
 242 marriage as the expected standard for all school-age students  
 243 while teaching the benefits of monogamous heterosexual marriage.

244 (c) ~~(b)~~ Emphasize that abstinence from sexual activity is a  
 245 certain way to avoid out-of-wedlock pregnancy, sexually  
 246 transmitted diseases, including acquired immune deficiency  
 247 syndrome, and other associated health problems.

248 (d) ~~(c)~~ Teach that each student has the power to control  
 249 personal behavior and encourage students to base actions on  
 250 reasoning, self-esteem, and respect for others.

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251 (e)~~(d)~~ Provide instruction and material that is  
 252 appropriate for the grade and age of the student.

253  
 254 The Department of Education must approve any materials used for  
 255 instruction under this subsection.

256 Section 6. Paragraphs (a), (d), and (e) of subsection (2)  
 257 and paragraphs (a) and (f) of subsection (4) of section 1006.28,  
 258 Florida Statutes, are amended to read:

259 1006.28 Duties of district school board, district school  
 260 superintendent; and school principal regarding K-12  
 261 instructional materials.—

262 (2) DISTRICT SCHOOL BOARD.—The district school board has  
 263 the constitutional duty and responsibility to select and provide  
 264 adequate instructional materials for all students in accordance  
 265 with the requirements of this part. The district school board  
 266 also has the following specific duties and responsibilities:

267 (a) Courses of study; adoption.—Adopt courses of study,  
 268 including instructional materials, for use in the schools of the  
 269 district.

270 1. Each district school board is responsible for the  
 271 content of all instructional materials and any other materials  
 272 used in a classroom, made available in a school or classroom  
 273 library, or included on a reading list, whether adopted and  
 274 purchased from the state-adopted instructional materials list,  
 275 adopted and purchased through a district instructional materials

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276 program under s. 1006.283, or otherwise purchased or made  
277 available.

278 2. Each district school board must adopt a policy  
279 regarding an objection by a parent or a resident of the county  
280 to the use of a specific material, which clearly describes a  
281 process to handle all objections and provides for resolution.  
282 The objection form, as prescribed by State Board of Education  
283 rule, and the district school board's process must be easy to  
284 read and understand and be easily accessible on the homepage of  
285 the school district's website. The objection form must also  
286 identify the school district point of contact and contact  
287 information for the submission of an objection. The process must  
288 provide the parent or resident the opportunity to proffer  
289 evidence to the district school board that:

290 a. An instructional material does not meet the criteria of  
291 s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in  
292 a course or otherwise made available to students in the school  
293 district but was not subject to the public notice, review,  
294 comment, and hearing procedures under s. 1006.283(2)(b) 8., 9.,  
295 and 11.

296 b. Any material used in a classroom, made available in a  
297 school or classroom library, or included on a reading list  
298 contains content which: ~~that~~

299 (I) Is pornographic or prohibited under s. 847.012;

300 (II) Depicts or describes sexual conduct as defined in s.

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301 847.001(19), unless such material is for a course required by s.  
 302 1003.46, s. 1003.42(2)(n)1.g., or s. 1003.42(2)(n)3., or  
 303 identified by State Board of Education rule;

304 (III) Is not suited to student needs and their ability to  
 305 comprehend the material presented;~~r~~ or

306 (IV) Is inappropriate for the grade level and age group  
 307 for which the material is used.

308  
 309 Any material that is subject to an objection on the basis of  
 310 sub-sub-subparagraph b.(I) or sub-sub-subparagraph b.(II) must  
 311 be removed within 5 school days of receipt of the objection and  
 312 remain unavailable to students of that school until the  
 313 objection is resolved. Parents shall have the right to read  
 314 passages from any material that is subject to an objection. If  
 315 the school board denies a parent the right to read passages due  
 316 to content that meets the requirements under sub-sub-  
 317 subparagraph b.(I), the school district shall discontinue the  
 318 use of the material. If the district school board finds that any  
 319 ~~an instructional~~ material meets ~~does not meet~~ the requirements  
 320 ~~criteria~~ under sub-subparagraph a. or that any other material  
 321 contains prohibited content under sub-sub-subparagraph b.(I)  
 322 ~~sub-subparagraph b.~~, the school district shall discontinue use  
 323 of the material. If the district school board finds that any  
 324 other material contains prohibited content under sub-sub-  
 325 subparagraph b. (II)-(IV), the school district shall discontinue

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326 use of the material for any grade level or age group for which  
327 such use is inappropriate or unsuitable.

328 3. Each district school board must establish a process by  
329 which the parent of a public school student or a resident of the  
330 county may contest the district school board's adoption of a  
331 specific instructional material. The parent or resident must  
332 file a petition, on a form provided by the school board, within  
333 30 calendar days after the adoption of the instructional  
334 material by the school board. The school board must make the  
335 form available to the public and publish the form on the school  
336 district's website. The form must be signed by the parent or  
337 resident, include the required contact information, and state  
338 the objection to the instructional material based on the  
339 criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days  
340 after the 30-day period has expired, the school board must, for  
341 all petitions timely received, conduct at least one open public  
342 hearing before an unbiased and qualified hearing officer. The  
343 hearing officer may not be an employee or agent of the school  
344 district. The hearing is not subject to the provisions of  
345 chapter 120; however, the hearing must provide sufficient  
346 procedural protections to allow each petitioner an adequate and  
347 fair opportunity to be heard and present evidence to the hearing  
348 officer. The school board's decision after convening a hearing  
349 is final and not subject to further petition or review.

350 4. Meetings of committees convened for the purpose of

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351 ranking, eliminating, or selecting instructional materials for  
352 recommendation to the district school board must be noticed and  
353 open to the public in accordance with s. 286.011. Any committees  
354 convened for such purposes must include parents of ~~district~~  
355 students who will have access to such materials.

356 5. Meetings of committees convened for the purpose of  
357 resolving an objection by a parent or resident to specific  
358 materials must be noticed and open to the public in accordance  
359 with s. 286.011. Any committees convened for such purposes must  
360 include parents of students who will have access to such  
361 materials.

362 6. If a parent disagrees with the determination made by  
363 the district school board on the objection to the use of a  
364 specific material, a parent may request the Commissioner of  
365 Education to appoint a special magistrate who is a member of The  
366 Florida Bar in good standing and who has at least 5 years'  
367 experience in administrative law. The special magistrate shall  
368 determine facts relating to the school district's determination,  
369 consider information provided by the parent and the school  
370 district, and render a recommended decision for resolution to  
371 the State Board of Education within 30 days after receipt of the  
372 request by the parent. The State Board of Education must approve  
373 or reject the recommended decision at its next regularly  
374 scheduled meeting that is more than 7 calendar days and no more  
375 than 30 days after the date the recommended decision is

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376 transmitted. The costs of the special magistrate shall be borne  
377 by the school district. The State Board of Education shall adopt  
378 rules, including forms, necessary to implement this  
379 subparagraph.

380 (d) School library media services; establishment and  
381 maintenance.—Establish and maintain a program of school library  
382 media services for all public schools in the district, including  
383 school library media centers, or school library media centers  
384 open to the public, and, in addition such traveling or  
385 circulating libraries as may be needed for the proper operation  
386 of the district school system. Beginning January 1, 2023, school  
387 librarians, media specialists, and other personnel involved in  
388 the selection of school district library materials must complete  
389 the training program developed pursuant to s. 1006.29(6) before  
390 reviewing and selecting age-appropriate materials and library  
391 resources. Upon written request, a school district shall provide  
392 access to any material or book specified in the request that is  
393 maintained in a district school system library and is available  
394 for review.

395 1. Each book made available to students through a school  
396 district library media center or included in a recommended or  
397 assigned school or grade-level reading list must be selected by  
398 a school district employee who holds a valid educational media  
399 specialist certificate, regardless of whether the book is  
400 purchased, donated, or otherwise made available to students.



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401           2. Each district school board shall adopt procedures for  
402 developing library media center collections and post the  
403 procedures on the website for each school within the district.

404 The procedures must:

405           a. Require that book selections meet the criteria in s.  
406 1006.40(3)(d).

407           b. Require consultation of reputable, professionally  
408 recognized reviewing periodicals and school community  
409 stakeholders.

410           c. Provide for library media center collections, including  
411 classroom libraries, based on reader interest, support of state  
412 academic standards and aligned curriculum, and the academic  
413 needs of students and faculty.

414           d. Provide for the regular removal or discontinuance of  
415 books based on, at a minimum, physical condition, rate of recent  
416 circulation, alignment to state academic standards and relevancy  
417 to curriculum, out-of-date content, and required removal  
418 pursuant to subparagraph (a)2.

419           3. Each elementary school must publish on its website, in  
420 a searchable format prescribed by the department, a list of all  
421 materials maintained and accessible in the school library media  
422 center or a classroom library or required as part of a school or  
423 grade-level reading list.

424           4. Each district school board shall adopt and publish on  
425 its website the process for a parent to limit his or her

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426 student's access to materials in the school or classroom  
 427 library.

428 (e) Public participation.—Publish on its website, in a  
 429 searchable format prescribed by the department, a list of all  
 430 instructional materials, including those used to provide  
 431 instruction required by s. 1003.42. Each district school board  
 432 must:

433 1. Provide access to all materials, excluding teacher  
 434 editions, in accordance with s. 1006.283(2)(b)8.a. before the  
 435 district school board takes any official action on such  
 436 materials. This process must include reasonable safeguards  
 437 against the unauthorized use, reproduction, and distribution of  
 438 instructional materials considered for adoption.

439 2. Select, approve, adopt, or purchase all materials as a  
 440 separate line item on the agenda and provide a reasonable  
 441 opportunity for public comment. The use of materials described  
 442 in this paragraph may not be selected, approved, or adopted as  
 443 part of a consent agenda.

444 3. Annually, beginning June 30, 2023, submit to the  
 445 Commissioner of Education a report that identifies:

446 a. Each material for which the school district received an  
 447 objection pursuant to subparagraph (a)2., including the grade  
 448 level and course the material was used in, for the school year  
 449 and the specific objections thereto.

450 b. Each material that was removed or discontinued ~~as a~~

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451 ~~result of an objection.~~

452 c. Each material that was not removed or discontinued and  
453 the rationale for not removing or discontinuing the material ~~The~~  
454 ~~grade level and course for which a removed or discontinued~~  
455 ~~material was used, as applicable.~~

456

457 The department shall publish and regularly update a list of  
458 materials that were removed or discontinued as a result of an  
459 objection and disseminate the list to school districts for  
460 consideration in their selection procedures.

461 (4) SCHOOL PRINCIPAL.—The school principal has the  
462 following duties for the management and care of materials at the  
463 school:

464 (a) Proper use of instructional materials.—The principal  
465 shall assure that instructional materials are used to provide  
466 instruction to students enrolled at the grade level or levels  
467 for which the materials are designed, pursuant to adopted  
468 district school board rule. The school principal shall  
469 communicate to parents the manner in which instructional  
470 materials are used to implement the curricular objectives of the  
471 school and the procedures for contesting the adoption and use of  
472 instructional materials.

473 (f) Selection of library media center materials.—School  
474 principals are responsible for overseeing compliance with school  
475 district procedures for selecting school library media center

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476 materials at the school to which they are assigned and notifying  
477 parents of the process for objecting to the use of specific  
478 materials.

479 Section 7. Sections 1000.05(2), (3), (4)(a), (5), and  
480 (6)(d), 1001.453(2)(c), 1002.42(3)(a), 1003.27(2)(b) and (c),  
481 1003.42(3)(a), (c), (e), and (f), 1004.43(2), 1006.205(2)(b) and  
482 (3), 1009.23(7), 1009.24(10)(b), 1009.983(6), 1009.986(3)(e),  
483 and 1014.05(1)(c), (d), and (f), Florida Statutes, are reenacted  
484 for the purpose of incorporating the amendment made by this act  
485 to s. 1000.21, Florida Statutes, in references thereto.

486 Section 8. If any provision of this act or the application  
487 thereof to any person or circumstance is held invalid, the  
488 invalidity does not affect other provisions or applications of  
489 this act which can be given effect without the invalid provision  
490 or application, and to this end the provisions of this act are  
491 severable.

492 Section 9. This act shall take effect July 1, 2023.