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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.