

117TH CONGRESS
2D SESSION

H. R. 4176

IN THE SENATE OF THE UNITED STATES

JULY 11, 2022

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To improve Federal populations surveys by requiring the collection of voluntary, self-disclosed information on sexual orientation, gender identity, and variations in sex characteristics in certain surveys, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “LGBTQI+ Data In-
3 clusion Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The National Academies on Sciences, Engi-
7 neering, and Medicine (NASEM), in their 2022 re-
8 port, found that complete and accurate demographic
9 information on the LGBTQI+ community should be
10 standardized and collected.

11 (2) Comprehensive statistics are needed to in-
12 form public policy and Federal programs.

13 (3) The availability of data also has a critical
14 role in ensuring that any disparities in areas like
15 health outcomes, housing, and employment can be
16 addressed.

17 (4) As of the March release of the NASEM re-
18 port, limited Federal surveys collect data on sexual
19 orientation and gender, with none currently meas-
20 uring intersex populations.

21 (5) The integrity of the Federal statistical sys-
22 tem relies on the ability of agencies to determine the
23 content of their statistical surveys based on consider-
24 ations of relevance, timeliness, accuracy, objectivity,
25 and ability to maintain confidentiality.

1 **SEC. 3. REQUIREMENT TO COLLECT DATA ON SEXUAL ORI-**
2 **ENTATION, GENDER IDENTITY, AND VARI-**
3 **ATIONS IN SEX CHARACTERISTICS.**

4 (a) **SURVEY REQUIREMENT.**—Not later than 360
5 days after the date of the enactment of this Act, the head
6 of any agency that collects information through a covered
7 survey for statistical purposes shall establish data stand-
8 ards that require, with regard to the survey, the following:

9 (1) **REVIEW.**—The review of covered surveys to
10 determine in which surveys information about sexual
11 orientation, gender identity, and variations in sex
12 characteristics is not included.

13 (2) **METHODS.**—An identification of appro-
14 priate methods to include questions on sexual ori-
15 entation, gender identity, and variations in sex char-
16 acteristics in covered surveys that facilitate cat-
17 egorization and voluntary participation and preserve
18 privacy and confidentiality, including protocols for
19 anonymizing data collected and destroying person-
20 ally-identifiable information at the appropriate time
21 and not later than three years after the date on
22 which the information is collected.

23 (3) **DATA COLLECTION.**—The use of the appro-
24 priate methods identified in paragraph (2) to gather
25 data on sexual orientation, gender identity, and vari-

ations in sex characteristics for any survey identified in paragraph (1).

(4) ASSESSMENT.—The implementation of a process to routinely assess needed changes in covered survey methods related to asking questions on sexual orientation, gender identity, and variations in sex characteristics.

(b) DATA REPORTS; WAIVER.—

(1) DATA REPORTS.—Not later than 3 years after the date of the enactment of this Act, any report published by an agency that relies on covered survey demographic data shall include information on sexual orientation, gender identity, and variations in sex characteristics.

(2) WAIVER.—The statistical official (as described in section 314 of title 5, United States Code) of each agency, or the head of the agency, for any agency that does not have a statistical official, may waive the requirement under paragraph (1), on a case-by-case basis, if the standards and policies in subsection (c) can not be met, or if adding such information to the survey would impair the ability of the agency to preserve the utility, accuracy, or objectivity of the survey while also generating relevant evidence about the LGBTQI+ community.

1 (c) CONFIDENTIALITY.—Any information collected
2 relating to the sexual orientation, gender identity, or vari-
3 ations in sex characteristics of a covered survey partici-
4 pant shall be maintained in accordance with applicable
5 confidentiality and privacy laws, policies, and standards.

6 (d) CONSTRUCTION.—Nothing in this Act shall be
7 construed to require an individual to disclose their sexual
8 orientation, gender identity, or variations in sex character-
9 istics to an agency.

10 (e) REPORT.—Not later than 2 years after the date
11 of the enactment of this Act, the Comptroller General shall
12 provide a report to Congress on the implementation of the
13 requirements of this Act by agencies, including how the
14 implementation of such requirements by agencies affected
15 the provision of services to persons according to the gen-
16 der identity, sexual orientation, and variations in sex char-
17 acteristics of the persons.

18 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to permit the use of information
20 collected under this section in a manner that would ad-
21 versely affect any individual, or that is inconsistent with
22 disclosure limitations established in any other law.

23 (g) DEFINITIONS.—In this section:

1 (1) AGENCY.—The term “agency” has the
2 meaning given that term in section 551 of title 5,
3 United States Code.

4 (2) COVERED SURVEY.—The term “covered
5 survey” means a survey that includes demographic
6 data in which—

7 (A) a subject self-reports information; or

8 (B) a knowledgeable proxy (including a
9 proxy of a deceased individual, if applicable)
10 provides information about the subject or re-
11 sponds for all individuals in a household.

12 (3) DEMOGRAPHIC DATA.—The term “demo-
13 graphic data” means information about the race or
14 ethnicity, sex, and age of a survey participant or
15 population.

16 (4) GENDER IDENTITY.—The term “gender
17 identity” means the gender-related identity, appear-
18 ance, mannerism, or other gender-related char-
19 acteristic of an individual, regardless of the des-
20 ignated sex at birth of the individual.

21 (5) SEXUAL ORIENTATION.—The term “sexual
22 orientation” means how a person identifies in terms
23 of their emotional, romantic, or sexual attraction,
24 and includes identification as straight, heterosexual,
25 gay, lesbian, or bisexual, among other terms.

(7) VARIATIONS IN SEX CHARACTERISTICS.—
The term “variations in sex characteristics”—

(A) means a physical trait present at birth or naturally occurring at a later time (including genitals, gonads, hormone function, and chromosome patterns), that differ from normative expectations for male or female bodies regarding the development, appearance, or function of sex-related characteristics; and

(B) is sometimes referred to as intersex traits.

Passed the House of Representatives June 23, 2022.

Attest: **CHERYL L. JOHNSON,**
Clerk.

By LISA GRANT,

Deputy Clerk.