

## Union Calendar No.

117TH CONGRESS  
2D SESSION

# H. R. 4176

[Report No. 117-]

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

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2021

Mr. GRIJALVA (for himself, Ms. PINGREE, Ms. LOIS FRANKEL of Florida, Mrs. CAROLYN B. MALONEY of New York, Mr. MORELLE, Ms. SCHA-KOWSKY, Mr. PAPPAS, Mr. BROWN, Mr. CARSON, Mr. LYNCH, Ms. MOORE of Wisconsin, Ms. BONAMICI, Ms. NORTON, Ms. SÁNCHEZ, Mr. AUCHINCLOSS, Mrs. DINGELL, Mrs. HAYES, Mr. KILMER, Ms. KUSTER, Mr. PETERS, Miss RICE of New York, Mr. TONKO, Mr. LOWENTHAL, Ms. TITUS, Mr. CICILLINE, Mr. BLUMENAUER, Mrs. WATSON COLEMAN, Mrs. DEMINGS, Ms. ESHOO, Mr. LANGEVIN, Mr. SMITH of Washington, Mr. JONES, Ms. LEE of California, Mr. DANNY K. DAVIS of Illinois, Ms. DEGETTE, Ms. DELBENE, Mr. ESPAILLAT, Mr. FOSTER, Mr. GARCÍA of Illinois, Mr. JOHNSON of Georgia, Ms. PORTER, Ms. PRESSLEY, Ms. STE-VENS, Ms. WILLIAMS of Georgia, Ms. WATERS, Mr. RASKIN, Ms. MCCOL-LUM, Mr. QUIGLEY, Mr. SUOZZI, Ms. JAYAPAL, Ms. DEAN, Mr. MALINOWSKI, Mr. MOULTON, Mr. WELCH, Mr. DEUTCH, Ms. CHU, Ms. MENG, Ms. BASS, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. KILDEE, Mr. SOTO, Mr. CASE, Mr. TAKANO, Mr. TORRES of New York, Mr. GALLEGO, Ms. NEWMAN, Ms. BROWNLEY, Ms. LEGER FERNANDEZ, Ms. SLOTKIN, Mr. NADLER, Ms. BARRAGÁN, Mr. COSTA, Mr. MCGOVERN, Mr. NORCROSS, Mr. PALLONE, Ms. WILSON of Florida, and Mr. BOWMAN) introduced the following bill; which was referred to the Committee on Oversight and Reform

JUNE --, 2022

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 25, 2021]

# **A BILL**

To improve Federal population surveys by requiring the collection of voluntary, self-disclosed information on sexual orientation and gender identity 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,*

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “LGBTQI+ Data Inclu-*  
5 *sion Act”.*

6 **SEC. 2. FINDINGS.**

7        *The Congress finds the following:*

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

13            (2) *Comprehensive statistics are needed to in-*  
14 *form public policy and Federal programs.*

15            (3) *The availability of data also has a critical*  
16 *role in ensuring that any disparities in areas like*  
17 *health outcomes, housing, and employment can be ad-*  
18 *dressed.*

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

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 days  
5 after the date of the enactment of this Act, the head of any  
6 agency that collects information through a covered survey  
7 shall establish data standards that require, with regard to  
8 the survey, the following:

9 (1) *REVIEW.*—The review of existing data sets to  
10 determine in which data sets information about sex-  
11 ual orientation, gender identity, and variations in  
12 sex characteristics is not included.

13 (2) *METHODS.*—An identification of appropriate  
14 methods to include questions on sexual orientation,  
15 gender identity, and variations in sex characteristics  
16 in covered surveys that facilitate categorization and  
17 voluntary participation and preserve privacy and  
18 confidentiality.

19 (3) *DATA COLLECTION.*—The use of the appro-  
20 priate methods identified in paragraph (2) to gather  
21 data on sexual orientation, gender identity, and vari-  
22 ations in sex characteristics.

23 (4) *ASSESSMENT.*—The implementation of a  
24 process to routinely assess needed changes in covered  
25 survey methods related to asking questions on sexual

1        *orientation, gender identity, and variations in sex*  
2        *characteristics.*

3        *(b) DATA REPORTS; WAIVER.—*

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

10           *(2) WAIVER.—The head of the statistical unit of*  
11        *an agency may waive the requirement under para-*  
12        *graph (1), on a case-by-case basis, if the standards*  
13        *and policies in subsection (c) can not be met.*

14           *(c) CONFIDENTIALITY.—Any information collected re-*  
15        *lating to the sexual orientation, gender identity, or vari-*  
16        *ations in sex characteristics of a covered survey participant*  
17        *shall be maintained in accordance with applicable con-*  
18        *fidentiality and privacy laws, policies, and standards.*

19           *(d) APPLICABILITY.—*

20           *(1) CONSTRUCTION.—Nothing in this Act shall*  
21        *be construed to require an individual to disclose their*  
22        *sexual orientation, gender identity, or variations in*  
23        *sex characteristics to an agency.*

24           *(2) EXEMPTION FROM PENALTY.—An individual*  
25        *is not subject to any fine or other penalty for refusing*

1       to answer any survey question regarding gender iden-  
2       tity, sexual orientation, or variations in sex charac-  
3       teristics, including any fine or penalty under sub-  
4       chapter II of chapter 7 of title 13, United States  
5       Code.

6       (e) *RULE OF CONSTRUCTION.*—Nothing in this section  
7       shall be construed to permit the use of information collected  
8       under this section in a manner that would adversely affect  
9       any individual.

10      (f) *DEFINITIONS.*—In this section:

11           (1) *AGENCY.*—The term “agency” has the mean-  
12           ing given that term in section 551 of title 5, United  
13           States Code.

14           (2) *COVERED SURVEY.*—The term “covered sur-  
15           vey” means a survey that includes demographic data  
16           in which—

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

18                   (B) a knowledgeable proxy provides infor-  
19                   mation about the subject or responds for all indi-  
20                   viduals in a household.

21           (3) *DEMOGRAPHIC DATA.*—The term “demo-  
22           graphic data” means information about the race or  
23           ethnicity, sex, and age of a survey participant or  
24           population.

1           (4) *GENDER IDENTITY.*—*The term “gender iden-*  
2           *tity” means the gender-related identity, appearance,*  
3           *mannerism, or other gender-related characteristic of*  
4           *an individual, regardless of the designated sex at*  
5           *birth of the individual.*

6           (5) *SEXUAL ORIENTATION.*—*The term “sexual*  
7           *orientation” means how a person identifies in terms*  
8           *of their emotional, romantic, or sexual attraction,*  
9           *and includes identification as straight, heterosexual,*  
10          *gay, lesbian, or bisexual, among other terms.*

11          (6) *SURVEY.*—*The term “survey” means a data*  
12          *collection activity involving observation or a question-*  
13          *naire for a sample of a population and includes the*  
14          *decennial census.*

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

17                 (A) *means a physical trait present at birth*  
18                 *or naturally occurring at a later time (including*  
19                 *genitals, gonads, hormone function, and chro-*  
20                 *mosome patterns), that differ from normative ex-*  
21                 *pectations for male or female bodies regarding*  
22                 *the development, appearance, or function of sex-*  
23                 *related characteristics; and*

24                 (B) *is sometimes referred to as intersex*  
25                 *traits.*

Amend the title so as to read: “A bill 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.”.