AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4176
OFFERED BY MRS. CAROLYN B. MALONEY OF
NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “LGBTQI+ Data Inclusion Act”.

3 SEC. 2. FINDINGS.

4 The Congress finds the following:

5 (1) The National Academies on Sciences, Engineering, and Medicine (NASEM), in their 2022 report, found that complete and accurate demographic information on the LGBTQI+ community should be standardized and collected.

6 (2) Comprehensive statistics are needed to inform public policy and Federal programs.

7 (3) The availability of data also has a critical role in ensuring that any disparities in areas like health outcomes, housing, and employment can be addressed.
As of the March release of the NASEM report, limited Federal surveys collect data on sexual orientation and gender, with none currently measuring intersex populations.

SEC. 3. REQUIREMENT TO COLLECT DATA ON SEXUAL ORIENTATION, GENDER IDENTITY, AND VARIATIONS IN SEX CHARACTERISTICS.

(a) SURVEY REQUIREMENT.—Not later than 360 days after the date of the enactment of this Act, the head of any agency that collects information through a covered survey shall establish data standards that require, with regard to the survey, the following:

(1) REVIEW.—The review of existing data sets to determine in which data sets information about sexual orientation, gender identity, and variations in sex characteristics is not included.

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

(3) DATA COLLECTION.—The use of the appropriate methods identified in paragraph (2) to gather
data on sexual orientation, gender identity, and variations in sex characteristics.

(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 head of the statistical unit of an agency 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.

(c) **Confidentiality.**—Any information collected relating to the sexual orientation, gender identity, or variations in sex characteristics of a covered survey participant shall be maintained in accordance with applicable confidentiality and privacy laws, policies, and standards.

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

(2) EXEMPTION FROM PENALTY.—An individual is not subject to any fine or other penalty for refusing to answer any survey question regarding gender identity, sexual orientation, or variations in sex characteristics, including any fine or penalty under subchapter II of chapter 7 of title 13, United States Code.

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

(f) DEFINITIONS.—In this section:

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

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

(A) a subject self-reports information; or
(B) a knowledgeable proxy provides information about the subject or responds for all individuals in a household.

(3) DEMOGRAPHIC DATA.—The term “demographic data” means information about the race or ethnicity, sex, and age of a survey participant or population.

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

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

(6) SURVEY.—The term “survey” means a data collection activity involving observation or a questionnaire for a sample of a population and includes the decennial census.

(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.

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.”