

**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 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.

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

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

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

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

17 (2) METHODS.—An identification of appro-
18 priate methods to include questions on sexual ori-
19 entation, gender identity, and variations in sex char-
20 acteristics in covered surveys that facilitate cat-
21 egorization and voluntary participation and preserve
22 privacy and confidentiality.

23 (3) DATA COLLECTION.—The use of the appro-
24 priate methods identified in paragraph (2) to gather

1 data on sexual orientation, gender identity, and vari-
2 ations in sex characteristics.

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

8 (b) DATA REPORTS; WAIVER.—

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

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

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

24 (d) APPLICABILITY.—

1 (1) CONSTRUCTION.—Nothing in this Act shall
2 be construed to require an individual to disclose
3 their sexual orientation, gender identity, or vari-
4 ations in sex characteristics to an agency.

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

12 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to permit the use of information
14 collected under this section in a manner that would ad-
15 versely affect any individual.

16 (f) DEFINITIONS.—In this section:

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

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

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

1 (B) a knowledgeable proxy provides infor-
2 mation about the subject or responds for all in-
3 dividuals in a household.

4 (3) DEMOGRAPHIC DATA.—The term “demo-
5 graphic data” means information about the race or
6 ethnicity, sex, and age of a survey participant or
7 population.

8 (4) GENDER IDENTITY.—The term “gender
9 identity” means the gender-related identity, appear-
10 ance, mannerism, or other gender-related char-
11 acteristic of an individual, regardless of the des-
12 ignated sex at birth of the individual.

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

18 (6) SURVEY.—The term “survey” means a data
19 collection activity involving observation or a ques-
20 tionnaire for a sample of a population and includes
21 the decennial census.

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

24 (A) means a physical trait present at birth
25 or naturally occurring at a later time (including

1 genitals, gonads, hormone function, and chro-
2 mosome patterns), that differ from normative
3 expectations for male or female bodies regard-
4 ing the development, appearance, or function of
5 sex-related characteristics; and

6 (B) is sometimes referred to as intersex
7 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.”.

