

118TH CONGRESS
1ST SESSION

H. R. 3970

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2023

Mr. GRIJALVA (for himself, Ms. JACOBS, Mrs. TORRES of California, Ms. WILSON of Florida, Ms. CLARKE of New York, Ms. STANSBURY, Mr. SHERMAN, Ms. SCANLON, Mr. CLEAVER, Mr. QUIGLEY, Mr. SMITH of Washington, Ms. BARRAGÁN, Mr. JOHNSON of Georgia, Ms. DELBENE, Ms. PINGREE, Ms. PRESSLEY, Mr. CÁRDENAS, Ms. NORTON, Ms. MCCOLLUM, Mr. TRONE, Ms. LEE of California, Ms. WASSERMAN SCHULTZ, Mr. MULLIN, Mr. CASTEN, Ms. MENG, Ms. TITUS, Mrs. MCCLELLAN, Mrs. NAPOLITANO, Ms. BONAMICI, Mrs. RAMIREZ, Ms. OMAR, Ms. SCHAKOWSKY, Mr. DOGGETT, Mr. SCHIFF, Ms. BALINT, Mrs. WATSON COLEMAN, Ms. TLAIB, Mr. POCAN, Mr. KHANNA, Ms. DAVIDS of Kansas, Ms. JACKSON LEE, Mr. EVANS, Mr. KILDEE, Ms. WEXTON, Mr. COSTA, Ms. LEGER FERNANDEZ, Mr. FOSTER, Mr. ESPAILLAT, Mr. KILMER, Ms. CHU, Mr. RASKIN, Ms. DEAN of Pennsylvania, Mr. SWALWELL, Mrs. FOUSHEE, Ms. KAMLAGER-DOVE, Ms. JAYAPAL, Ms. WILLIAMS of Georgia, and Mr. CARTWRIGHT) introduced the following bill; which was referred to the Committee on Oversight and Accountability

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.

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 In-

5 clusion Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) In its 2023 Federal Evidence Agenda on
9 LGBTQI+ Equity, the Subcommittee on Sexual
10 Orientation, Gender Identity, and Variations in Sex
11 Characteristics (SOGI) Data that operates as part
12 of the Subcommittee on Equitable Data of the Na-
13 tional Science and Technology Council found that
14 SOGI data collection can and should become part of
15 standard demographic data collection throughout
16 Federal agencies and that the collection of quality
17 data on LGBTQI+ populations is essential for evi-
18 dence-based policymaking and programmatic deci-
19 sion making.

20 (2) The National Academies on Sciences, Engi-
21 neering, and Medicine (NASEM), in their 2022 re-
22 port, found that complete and accurate demographic
23 information on the LGBTQI+ community should be
24 standardized and collected.

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

3 (4) The availability of data also has a critical
4 role in ensuring that any disparities in areas like
5 health outcomes, housing, education, and employ-
6 ment can be addressed.

7 (5) As of the March release of the NASEM re-
8 port, limited Federal surveys collect data on sexual
9 orientation and gender, with none currently meas-
10 uring intersex populations.

11 (6) The integrity of the Federal statistical sys-
12 tem relies on the ability of agencies to determine the
13 content of their statistical surveys based on consider-
14 ations of relevance, timeliness, accuracy, objectivity,
15 and ability to maintain confidentiality.

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

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

24 (1) REVIEW.—The review of covered surveys to
25 determine in which surveys information about sexual

1 orientation, gender identity, and variations in sex
2 characteristics is not included.

3 (2) METHODS.—An identification of appro-
4 priate methods to include questions on sexual ori-
5 entation, gender identity, and variations in sex char-
6 acteristics in covered surveys that facilitate cat-
7 egorization and voluntary participation and preserve
8 privacy and confidentiality, including protocols for
9 anonymizing data collected and destroying personally
10 identifiable information at the appropriate time and
11 not later than three years after the date on which
12 the information is collected.

13 (3) DATA COLLECTION.—The use of the appro-
14 priate methods identified in paragraph (2) to gather
15 data on sexual orientation, gender identity, and vari-
16 ations in sex characteristics for any survey identified
17 in paragraph (1).

18 (4) ASSESSMENT.—The implementation of a
19 process to routinely assess needed changes in cov-
20 ered survey methods related to asking questions on
21 sexual orientation, gender identity, and variations in
22 sex characteristics.

23 (b) DATA REPORTS; WAIVER.—

24 (1) DATA REPORTS.—Not later than 3 years
25 after the date of the enactment of this Act, any re-

1 port published by an agency that relies on covered
2 survey demographic data shall include information
3 on sexual orientation, gender identity, and variations
4 in sex characteristics.

5 (2) WAIVER.—The statistical official (as de-
6 scribed in section 314 of title 5, United States Code)
7 of each agency, or the head of the agency, for any
8 agency that does not have a statistical official, may
9 waive the requirement under paragraph (1), on a
10 case-by-case basis, if the standards and policies in
11 subsection (c) can not be met, or if adding such in-
12 formation to the survey would impair the ability of
13 the agency to preserve the utility, accuracy, or objec-
14 tivity of the survey while also generating relevant
15 evidence about the LGBTQI+ community.

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

21 (d) CONSTRUCTION.—Nothing in this Act shall be
22 construed to require an individual to disclose their sexual
23 orientation, gender identity, or variations in sex character-
24 istics to an agency.

1 (e) REPORT.—Not later than 2 years after the date
2 of the enactment of this Act, the Comptroller General shall
3 provide a report to Congress on the implementation of the
4 requirements of this Act by agencies, including how the
5 implementation of such requirements by agencies affected
6 the provision of services to persons according to the gen-
7 der identity, sexual orientation, and variations in sex char-
8 acteristics of the persons.

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

14 (g) DEFINITIONS.—In this section:

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

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

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

22 (B) a knowledgeable proxy (including a
23 proxy of a deceased individual, if applicable)
24 provides information about the subject or re-
25 sponds for all individuals in a household.

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

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

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

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

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

21 (A) means a physical trait present at birth
22 or naturally occurring at a later time (including
23 genitals, gonads, hormone function, and chro-
24 mosome patterns), that differ from normative
25 expectations for male or female bodies regard-

1 ing the development, appearance, or function of
2 sex-related characteristics; and

3 (B) is sometimes referred to as intersex
4 traits.

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