

117TH CONGRESS
1ST SESSION

S. 2287

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.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Ms. BALDWIN (for herself, Mr. BLUMENTHAL, Ms. CORTEZ MASTO, Mr. MARKEY, Ms. HIRONO, Ms. SMITH, Mr. MENENDEZ, Mr. MERKLEY, Mr. KAINE, and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 “LGBTQ Data Inclu-
5 sion Act”.

1 **SEC. 2. REQUIREMENT TO COLLECT DATA ON SEXUAL ORI-**
2 **ENTATION AND GENDER IDENTITY.**

3 (a) DEFINITIONS.—In this section:

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

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

11 (3) GENDER IDENTITY.—The term “gender
12 identity” means an individual’s sense of being male,
13 female, transgender, or another gender, as distinct
14 from the individual’s sex assigned at birth.

15 (4) SEXUAL ORIENTATION.—The term “sexual
16 orientation”—

17 (A) means how a person identifies in terms
18 of their emotional, romantic, or sexual attrac-
19 tions; and

20 (B) includes identification as straight, het-
21 erosexual, gay, lesbian, or bisexual, among
22 other terms.

23 (5) SURVEY.—The term “survey”—

24 (A) means a data collection activity involv-
25 ing observation or questionnaires for a sample
26 of a population; and

1 (B) includes the decennial census.

2 (b) SURVEY REQUIREMENT.—Any agency that col-
3 lects information through a survey that includes demo-
4 graphic data where subjects either self-report information
5 or a knowledgeable proxy provides information about the
6 subject or responds for all persons in a household shall,
7 not later than 180 days after the date of enactment of
8 this Act, establish data standards that require, with re-
9 gard to such a survey, the following:

10 (1) REVIEW.—The review of existing data sets
11 to determine in which data sets information about
12 sexual orientation and gender identity is not in-
13 cluded.

14 (2) METHODS.—An identification of appro-
15 priate methods to include questions on sexual ori-
16 entation and gender identity in surveys that facili-
17 tate categorization, voluntary participation, and pre-
18 serve privacy and confidentiality.

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

22 (4) ASSESSMENT.—The implementation of a
23 process to routinely assess needed changes in survey
24 methods related to asking questions on sexual ori-
25 entation and gender identity.

1 (c) DATA REPORTS.—Any report published by an
2 agency that relies on survey demographic data shall in-
3 clude information on sexual orientation and gender iden-
4 tity.

5 (d) CONFIDENTIALITY.—Any information collected
6 relating to the sexual orientation or gender identity of a
7 survey participant shall be maintained in accordance with
8 the confidentiality and privacy standards and policies for
9 the protection of individuals applicable to that survey.

10 (e) APPLICABILITY.—

11 (1) CONSTRUCTION.—Nothing in this Act shall
12 be construed to require an individual to disclose
13 their sexual orientation or gender identity to an
14 agency.

15 (2) EXEMPTION FROM PENALTY.—An indi-
16 vidual shall not be subject to any fine or other pen-
17 alty for refusing to answer, or providing a false an-
18 swer to, any survey question regarding gender iden-
19 tity or sexual orientation, including any fine or pen-
20 alty under subchapter II of chapter 7 of title 13,
21 United States Code.

22 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed to permit the use of information

- 1 collected under this section in a manner that would ad-
- 2 versely affect any individual.

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