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 26, 2019

Ms. BALDWIN (for herself, Mr. MARKEY, Ms. CORTEZ MASTO, Mr. BLUMENTHAL, Mr. MERKLEY, Mr. MURPHY, Mr. DURBIN, Mr. MENENDEZ, Mr. CARPER, Ms. KLOBUCHAR, Mrs. MURRAY, Ms. SMITH, Mrs. FEINSTEIN, Mr. WYDEN, Ms. HIRONO, Ms. HARRIS, Mr. BOOKER, Ms. ROSEN, and Mr. BROWN) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “LGBTQ Data Inclusion Act”.

SEC. 2. REQUIREMENT TO COLLECT DATA ON SEXUAL ORIENTATION AND GENDER IDENTITY.

(a) DEFINITIONS.—In this section:

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

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

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

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

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

(b) SURVEY REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, each agency that collects information through a survey that includes
demographic data where subjects self-report information or a knowledgeable proxy provides information about the subject or responds for all persons in a household shall establish data standards that require, with regard to such a survey, the following:

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

(2) METHODS.—An identification of appropriate methods to include questions on sexual orientation and gender identity in surveys that facilitate categorization, 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 and gender identity.

(4) ASSESSMENT.—The implementation of a process to routinely assess needed changes in survey methods related to asking questions on sexual orientation and gender identity.

(c) DATA REPORTS.—Where appropriate, any report published by an agency that relies on survey demographic data shall include information on sexual orientation and gender identity.
(d) CONFIDENTIALITY.—Any information collected relating to the sexual orientation or gender identity of a survey participant shall be maintained in accordance with the confidentiality and privacy standards and policies for the protection of individuals applicable to that survey.

(e) APPLICABILITY.—

(1) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(A) to require an individual to disclose their sexual orientation or gender identity to an agency; or

(B) to permit the use of information collected under this section in a manner that would adversely affect any individual.

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