

My name is Susan J. Pearson. I am a Professor of History at Northwestern University and the author of *The Birth Certificate: An American History* (University of North Carolina Press, 2021). That book traces the history of how birth registration became compulsory and statistically universal in the United States. In my capacity as an expert on the history of birth registration in the United States, I write to express my concern that the most basic proof of citizenship available—a certificate of birth showing birth on U.S. soil—is not uniformly available to all citizens. Thus, a rule change designed to prevent noncitizens from voting may disenfranchise citizens instead. In what follows, I will explain why birth certificates can be difficult to obtain—and may not exist at all—for some of our fellow citizens. Unless otherwise noted, the information below is based on research conducted for and information contained within *The Birth Certificate: An American History*.

1. Birth certificates can be expensive and administratively burdensome to obtain

In the contemporary United States, a birth certificate is the most accessible form of proof of citizenship available to most Americans. However, it can be expensive and administratively burdensome to obtain a certified copy of one's birth certificate. The cost and the procedure vary by state, meaning that access to citizenship documents is not uniform. For example, in Alaska, a copy of a birth certificate costs \$30, whereas the average cost across the United States is \$19.¹ In Alaska, the application for the certificate must be mailed to the state Department of Health in Juneau along with a copy of a photo ID. Indeed, every state in the nation requires anyone applying for a copy of their own birth certificate to show a photo ID. Considering that birth certificates are themselves often used as proof of identity for photo IDs such as driver's licenses and other state IDs, this procedure creates an exclusionary loop for citizens who do not yet have such IDs. In some states, mail-in applications must be notarized, which adds additional time, money, and effort; in others, notarized affidavits of signature can substitute for a photo ID. However, since notaries require state IDs to verify identity, these procedures create the same issues present with the original ID requirements of states. Multiple peer-reviewed social scientific studies have shown that laws requiring voters to show a form of ID disproportionately affect minority voters because they are less likely to possess approved forms of identification.² The state-level requirement to provide photo ID to obtain a birth certificate could reproduce the same problem. A requirement to provide proof of citizenship to vote often requires a birth certificate, and since most states require ID to secure a copy of one's birth certificate, the effect may be the disproportionate disfranchisement of minority voters. If a person without state-issued

¹ Information about the costs of birth certificates was obtained from: National Center for Health Statistics, "Where to Write for Vital Records," accessed here: <https://www.cdc.gov/nchs/w2w/>.

² The literature is vast but definitive. For good examples, see: Phoebe Henninger, Marc Meredith, and Michael Morse, "Who Votes Without Identification? Using Individual-Level Administrative Data to Measure the Burden of Strict Voter Identification Laws," *Journal of Empirical Legal Studies* 18 (2021): 256–86; Zoltan Hajnal, Nazita Lajevardi, and Lindsay Nielson, "Voter Identification Laws and the Suppression of Minority Votes," *The Journal of Politics* 79 (2017): 363–742; Michael J. Pomante, Scot Schraufnagel, and Quan Li, *The Cost of Voting in the American States* (Lawrence, KS: University of Kansas Press, 2023); Bernard L. Fraga and Michael G Miller, "Who Do Voter ID Laws Keep from Voting?," *The Journal of Politics* 84 (2022): 1091–1105.

or state-approved photo ID must acquire one in order to access their birth certificate, this will double the financial and administrative burden required to exercise a constitutional right.

2. There are U.S. citizens who do not have birth certificates

Although birth registration is today considered universal and complete in the United States, the reality is that many citizens of voting age did not have their births registered at the time they were born. Because birth registration is controlled by the states and not the federal government, the achievement of statistically universal birth registration was long and complex, and much depended on local conditions. Whereas states in the Northeast had functional vital registration systems as early as the middle of the nineteenth century, some states in the South and the West did not achieve universal birth registration until after World War II.³ Indeed, during World War II, the federal government briefly tried to require documentary proof of citizenship to work in the war industries. What the U.S. government quickly learned was that this was an impossible standard, which it soon reversed, because forty-three million Americans of working age (between 18 and 65) had no proof of their birth on U.S. soil. To continue to require proof of citizenship to work in plants supplying the army would have crippled the war effort. Ironically, those most likely to have proof of citizenship were naturalized citizens, not birthright citizens. At the time, administrators in the U.S. Armed Forces and the U.S. Census Bureau recognized that the federated vital-registration system created profound problems for verification of citizenship.⁴ State-administered programs were not designed to provide evidence for national citizenship, yet the federal government provided no regularized registration of citizenship either. It still does not.

Though the problem is not as acute today, many of the men and women born before most states achieved universal birth registration are still alive and could be barred from voting by any requirement to provide documentary proof of citizenship. Historically, unregistered births predominated among rural, nonwhite, and homebirth populations. To see how this could impact the contemporary electorate, consider data collected in 1940 and 1950 by the United States Census Bureau. In conjunction with the decennial census in those years, the Bureau also conducted tests of birth registration completeness. In the first of these, 1940, it found that states varied in how well they registered their babies at birth; some states captured only 76% of newborns, while others registered over 99%. In 1940, a significant predictor of registration at birth was place of birth – in a hospital or at home. For babies born in hospitals, registration rates hovered around 98.5%, whereas a baby delivered at home had only about an 86% chance of having their birth registered. Since nonwhite and farming families were more likely to deliver

³ For the complete history, see: Susan J. Pearson, *The Birth Certificate: An American History* (Chapel Hill: University of North Carolina Press, 2021).

⁴ Pearson, *The Birth Certificate*, 243-247; United States Senate Committee on Military Affairs, Hearing Before a Subcommittee of the Committee on Military Affairs on S. 2299, *A Bill to Authorize the Director of the Census to Issue Certifications of Birth Records*, 77th Congress, 2nd Session (Washington, D.C.: GPO, 1942); United States House of Representatives, Committee on the Census, *Hearings Before the Committee on the Census, Authorizing the Director of the Census to Issue Birth Certificates, June 4, 9, and 10, 1942*, 77th Congress, 2nd Session (Washington, D.C.: GPO, 1942).

their babies at home, these populations also had lower rates of birth registration. In 1940, white babies were registered at a rate of 92% compared to 82% for nonwhite babies. For Native Americans, the rate was only 68%. When combined with homebirth, the registration rate for nonwhite births fell to 77%.⁵ It is important to note that non-hospital births were higher among nonwhites in part because, before the 1964 Civil Rights Act was passed, states were free to bar African Americans and other nonwhites from public and private healthcare facilities, making access to hospitals difficult and, in some cases, impossible.⁶ In 1950, the test of birth registration completeness showed improvement in registration rates across the board, but with important caveats. For nonwhite groups, registration rates rose to 93.5%, and for whites the rate was higher still, 98.6%. However, registration rates still varied by race, region, and location of birth. The South had the lowest overall registration rate, at 95% overall and 92% for nonwhites, while in the West, non-hospital births were registered only 76% of the time. Among particular Native American groups, rates were much lower. Separately, federal officials estimated that in 1940, only 25% of Navajo babies were registered; as of 1950, the rate had improved, but only to just under 50 percent.⁷ As late as 1968, nonwhite, non-hospital births still lagged considerably behind white, hospital births – coming in at 93% and 99%, respectively.⁸

Today, more than half the population of the United States is over the age of 65, with 29% of the population between the ages of 75 and 84.⁹ Men and women in this cohort are precisely the babies born in the years measured by the birth registration tests of 1940 and 1950. Requiring documentary proof of citizenship could effectively prevent thousands of these citizens from exercising their constitutional rights, with the burden falling disproportionately on men and women born to nonwhite and/or farming families. Moreover, since birth registration rates correlated strongly with hospital births, past policies of racial segregation in hospital-based healthcare would be allowed to impact the rights of nonwhite citizens today, long after the era of segregation has passed.

Though birth registration is considered statistically universal in the United States, this does not mean that all babies are registered at birth, or that all babies born between 1950 and 2025 were registered. Indeed, there are an unknown number of U.S. citizens who lack the ability to prove their citizenship and are effectively stateless. We have anecdotes about some, but by no

⁵ Sam Shapiro, “Recent Testing of Birth Registration Completeness in the United States,” *Population Studies* 8 (1954): 15-16; J. Nixon Hadley, “Registration of Vital Events Among Indians,” *Vital Statistics—Special Reports* 33 (1950): 112.

⁶ On segregation in hospital care and lack of access for African Americans, see: Karen Kruse Thomas, “The Hill-Burton Act and Civil Rights: Expanding Hospital Care for Black Southerners, 1939-1960,” *The Journal of Southern History* 72 (2006): 826-827.

⁷ Shapiro, “Recent Testing of Birth Registration Completeness,” 15-16; J. Nixon Hadley, “Health Conditions Among Navajo Indians,” *Public Health Reports* 70 (1955): 832.

⁸ United States Bureau of the Census, *Test of Birth Registration Completeness, 1964 to 1968* (Washington: U.S. Dept. of Commerce, 1973), 4.

⁹ Andrew W. Roberts, et. al., “The Population 65 Years and Older in the United States: 2016,” issued October 2018, American Community Survey Reports <https://www.census.gov/content/dam/Census/library/publications/2018/acs/ACS-38.pdf>

means all, of these undocumented citizens. One such individual is Sam Bishop, who contacted me for assistance. Sam lives in New Hampshire, where he was born at home and homeschooled until the age of 16, when he was kicked out of the house by his parents. Sam's parents were part of the Sovereign Citizens movement, a group that believes, among other things, that birth certificates are a form of government ownership of individuals. Sovereign Citizens do not register their children's births, use driver's licenses, or otherwise submit to forms of government identification and registration. Sam's parents did not register his birth or obtain a social security number for him; they also never took him to see a doctor or enrolled him in school or any other institution. Now, as a young adult, Sam has no proof of his existence and is unable to obtain a birth certificate, a social security card, a driver's license or other state ID. He cannot be legally employed, either. Sam has spent over six years, and contacted over thirty lawyers, trying to obtain proof of his identity. No one has been able to help him since he lacks any documentation of his birth.¹⁰ Today, Sam Bishop is stateless despite being born in New Hampshire and having never set foot outside the United States.

Abigail Colon, like Sam, is also a birthright citizen who has no birth certificate or other documentation of her identity. Born at home to evangelical Christian parents in Colorado, she was also homeschooled. Now, as an adult, Abigail has repeatedly petitioned the state of Colorado to obtain a delayed certificate of birth, but the state has denied her request because she lacks documentary proof of her existence dating from before she reached the age of 10. Colon has taken her case to court and appealed the denial of a birth certificate as a violation of her constitutional rights. Colorado's Attorney General issued an opinion in her case that neither Abigail, nor anyone in Colorado, has a constitutional right to a birth certificate.¹¹

The cases of Sam Bishop and Abigail Colon are just two examples of a much more widespread phenomenon in which parents, often for deeply held ideological, philosophical, or religious reasons, deliver their children at home and refuse to have their births registered. If such children are also homeschooled and don't receive mainstream medical care, they reach adulthood with no proof of identity and few resources to establish it, particularly if their parents are uncooperative or estranged from them.¹² These men and women, like the thousands of citizens over the age of 65 who never had their births registered, are at risk of losing constitutional rights.

3. Delayed birth registration is expensive, complex, and sometimes impossible

Sam and Abigail's cases also demonstrate how cumbersome the procedure for obtaining official proof of birth many years later can be. All states have established processes by which individuals whose births were not originally registered may obtain a birth certificate, referred to as a "delayed" birth certificate. The procedures vary by state, but in all cases the process is more

¹⁰ Sam Bishop, personal correspondence with author.

¹¹ Spencer Bailey, "The Woman Who Doesn't Exist," 5280 (August 2025), <https://5280.com/the-woman-who-doesnt-exist/>

¹² Erin Welsh, "Kids of the Grid: 'Sovereign Citizen Parenting' and Its Legal Impact on Children," *New York State Bar Association Journal* 95 (November/December 2023): 47-50.

time-consuming, labor-intensive, and expensive than applying to obtain a copy of an original birth certificate. In some cases, such as those of Sam and Abigail, unregistered citizens will not be able to meet state criteria for delayed birth registration, no matter what the specific procedures are. Most states require applicants for delayed registration to submit at least two, and sometimes as many as four, documents to establish their birthdate, birthplace, and parentage. Most states also specify that those documents need to have been produced within a certain number of years after birth. In Abigail's case, for example, the first documentary evidence of her name and age dated from when she was 11, whereas Colorado required that documents submitted for delayed registration be created no more than 10 years from her date of birth. Because she cannot meet the 10-year threshold, she cannot obtain delayed registration.¹³ Some states increase documentation requirements incrementally based on the age of the applicant: the more time has elapsed since birth, the more corroborating documentation is required. States also charge anywhere from double to triple the fees to process applications for delayed birth certificates than they do for copies of original birth registration. In Utah, for example, copies of birth certificates cost \$22, but the application for a delayed birth certificate costs \$62. In Oklahoma, a copy of a birth certificate is \$15, while a delayed registration is \$40.¹⁴ These higher costs come on top of the fees that many states charge individuals to search for an original birth registration, which may be required before applying for a delayed certificate. For low-wage workers, or for seniors on a fixed income with little margin in their budgets, these costs may prove prohibitive.

Such financial burden is on top of the time (and potentially additional cost) required to gather the necessary documents, some of which may be difficult to get a hold of. A person whose birth was not originally registered was very unlikely to have been born in a hospital, and so will lack a medical record of their birth or any other official record that demonstrates the exact date of their birth. If the person attended an elementary school, they may be able to provide a school record showing the date that they enrolled in school, but that requires tracking down their school district and records from a young age. As an adult, an applicant may live a great distance from their original elementary school. Likewise, they may be able to obtain childhood medical records if their family used physicians, but this too requires a great deal of knowledge and bureaucratic acumen. An adult must know the name and contact information of the physicians who treated them as a very young child. If those physicians were not affiliated with large, still-extant healthcare systems, their records may or may not still be available and the physicians themselves may or may not still be alive. In most states, applicants for delayed registration who cannot meet the state's criteria, or whose applications are otherwise rejected, may have recourse to a judicial procedure on appeal. This requires additional time and money, potentially including lawyer's

¹³ Bailey, "The Woman Who Doesn't Exist."

¹⁴ Utah Department of Health & Human Services, Office of Vital Records and Statistics Fee Schedule, Effective July 1, 2023, accessed here: <https://vitalrecords.utah.gov/wp-content/uploads/FeeScheduleFY24-TO-BE-APPROVED.pdf>; Oklahoma State Department of Health, Birth Certificate Request Form, accessed here: <https://oklahoma.gov/content/dam/ok/en/health/health2/aem-documents/vital-records/forms/18008vr-vr-birth-application-eng-eform.pdf>.

fees. Even then, however, there is no guarantee that a court will reach a different conclusion than the State's Department of Health or its Bureau of Vital Statistics.

On the whole, delayed birth certificates are even more expensive and administratively burdensome to obtain than original birth certificates. State procedures are designed to protect the security of birth certificates and their evidentiary requirements mean that, even when individuals are able to surmount the hurdles required to provide proof of birth and parentage, and even when they can put together the money for the application, there is no guarantee that they will be able to receive a delayed certificate. States with large rural, nonwhite, and/or immigrant populations are likely to have the most applications for delayed registration, and thus these citizens are most vulnerable to the exclusions of delayed registration procedures.¹⁵

4. The evidentiary value of birth certificates is not stable in a federal system

We know that there are U.S. citizens who have no proof of their birth in the United States and who lack other forms of documentation that may establish their citizenship. However, even for those that do have a birth certificate, there is no guarantee that their birth certificates will be accepted as proof of citizenship. The value of birth certificates is not always stable over time or across jurisdictions. For example, in 2010 the government of Puerto Rico invalidated all birth certificates issued before that date, requiring anyone born before then—the entirety of its voting-age population—to obtain a new birth certificate.¹⁶ Given the administrative burden and costs of obtaining a certified birth certificate, outlined in Part 1 above, requiring proof of birth in Puerto Rico in order to vote in a federal election would prove a significant hardship.

The federal government is under no obligation to accept state certificates of birth as valid. Indeed, in the recent past it has rejected state-issued birth certificates as proof of identity. Under the Bush, Obama, and Trump administrations, the United States Department of State has refused to recognize midwife-signed birth certificates issued in certain counties in Texas. The State Department has alleged that midwives (and one doctor) operating in these counties, which are all located along the U.S.--Mexico border, fraudulently registered babies in Texas, when they were actually born across the border in Mexico. The period of alleged fraud was between 1950 and the 1990s, meaning that many men and women of voting age have had their citizenship challenged despite having state-issued documents from Texas (and despite, in some cases, having served honorably in the U.S. military).¹⁷ Families who used such midwives are largely Hispanic, meaning that this administrative denial of citizenship disproportionately affects ethnic minorities. Such cases also demonstrate that the federal government has the power, and the discretion, to choose which birth certificates it considers probative, and those it does not. Such power can be

¹⁵ Angela R. Remus, "Caught Between Sovereigns: Federal Agencies, States, and Birthright Citizens," *Stanford Law & Policy Review* 34 (2023): 233.

¹⁶ U.S. Department of State, "New Requirements for Passport Applicants with Puerto Rican Birth Certificates," press release, 20 October 2010, accessed here: <https://2009-2017.state.gov/r/pa/prs/ps/2010/10/150173.htm>

¹⁷ Kevin Sieff, "U.S. Government Denies Americans their Passports," *The Washington Post*, 30 August 2018, A1.

exercised in a discriminatory fashion and in ways that undermine the birthright citizenship guarantees of the Fourteenth Amendment.

The situation is even more complex with respect to delayed birth certificates, which many federal agencies do not accept as *prima facie* proof of citizenship or other facts of identity. Different agencies within the federal government, including the State Department, Health and Human Services, and the Social Security Administration, have each promulgated different rules about how to treat the probative value of delayed birth certificates. Despite the fact that the federal government relies on states to create birth certificates as proof of citizenship, it does not always accept them. The Department of State, for example, requires that passport applicants who submit a delayed registration of birth also submit additional evidence of citizenship; the Department retains full discretionary power, stating only that the additional documents must meet with the Department's satisfaction.¹⁸ In practice, this means that passport applicants with delayed birth certificates have their citizenship questioned and, in some cases, denied. The only recourse for those whose delayed birth certificates are rejected—despite having met state standards—is a federal lawsuit that is not only costly and time-consuming, but often requires litigants to amass yet more evidence of their birth and identity, beyond that which was already provided for: a) the original delayed certificate; and, b) the subsequent federal review.

5. Conclusion

Because of the birthright citizenship provision of the Fourteenth Amendment, a birth certificate is the most common proof of U.S. citizenship available to most Americans. Yet it would be a mistake to regard birth certificates as a uniformly accessible, available, or reliable form of documentation. For those who were registered at birth, obtaining a certified copy of a birth certificate can be expensive and time-consuming; it may also require forms of identification that individual applicants do not have. In addition, as I have shown, many Americans of voting age never had their births registered. An unregistered birth is more common for a citizen born outside of a hospital to a nonwhite and/or farming family. Today, children born to home-birthing and homeschooling families still escape registration. Because delayed birth registration relies on an applicant's ability to access high-quality documents from early in their life and is usually more expensive than obtaining an original birth certificate, it is not a panacea for the unregistered. Finally, having a birth registration does not guarantee that it will be accepted as proof of citizenship. Administrative agencies have discretion to reject both original and delayed proofs of birth. Like those whose births were not originally registered, the administrative denials also disproportionately affect nonwhite and rural people. Requiring documentary proof of citizenship in order to vote may make it impossible for some citizens to exercise their basic constitutional rights. I hope that the Election Assistance Commission will take these burdens into account, noting that they fall disproportionately on nonwhite and rural voters.

¹⁸ Remus, "Between Sovereigns," 238-242.