

# Undocumented American Citizens

*The SAVE America Act claims to protect elections. But for millions of Americans — adoptees, rural elderly, and those born before records were kept — it may simply erase them.*

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On February 11, 2026, the U.S. House of Representatives passed the Safeguard American Voter Eligibility (SAVE) America Act by a vote of 218 to 213. The bill now moves to a Senate where it faces a 60-vote threshold. Its stated purpose is clear and broadly supported in principle: only American citizens should vote in American elections. Nobody serious disputes that goal.

What is being disputed — and what the bill's supporters have been remarkably quiet about — is who, exactly, will be caught in the net its documentation requirements cast. The public debate has focused largely on married women whose names no longer match their birth certificates. That is a real concern affecting tens of millions of people. But it is far from the only one.

Two populations have gone almost entirely unmentioned: adoptees whose documents don't tell a clean story, and Americans — disproportionately elderly, rural, Black, and Native — who were born at a time and in a place where birth certificates were simply never issued, or where the records that did exist have since been lost. For these citizens, the problem isn't finding the right paperwork. The problem is that the paperwork never existed, or no longer does.

This is not a hypothetical. It is a documented demographic reality. And the bill, as passed by the House, has no meaningful answer for it.

## What the Bill Actually Requires

The SAVE America Act amends the National Voter Registration Act of 1993 to require documentary proof of U.S. citizenship at the time of voter registration for federal elections. Acceptable documents include a REAL ID-compliant identification that explicitly indicates citizenship, a valid U.S. passport, a military ID paired with a service record showing U.S. birth, or a government-issued photo ID paired with one of several supporting documents.

That last category is where most Americans will land. For the majority of voters — those who have a standard driver's license but no passport — registering to vote will require presenting that license along with one of the following: a certified birth certificate, a hospital record of birth, a final adoption decree, a consular report of birth abroad, a certificate of citizenship or naturalization, or an American Indian Card with a specific federal classification.

The bill text is precise about what that birth certificate must contain. It must have been filed with the state's vital records office, include the applicant's full name, date and place of birth, and a parent's name, bear the signature of an authorized official, include the filing date, and carry the official seal of the issuing government. A photocopy is not acceptable. A digital record is not acceptable. The document must be presented in person to an election official.

For people born in a hospital in the United States in the last fifty years, this is inconvenient but manageable. For a meaningful segment of the American population, it is effectively impossible.

## **The Problems Adoptees May Face**

The bill does include adoption decrees as an acceptable pairing document — but with a critical qualifier buried in the bill text. The decree must show "the applicant's name and that the applicant's place of birth was in the United States." This is not a formality. Many adoption decrees, particularly those from closed adoptions prior to the 1980s, do not include the child's place of birth. The adopting family was often given minimal information about the child's origins, and the decree reflected that.

For adoptees with a standard amended birth certificate that matches their current legal name and ID, the process should work. But for those whose amended certificate was issued under a name they no longer use — due to a subsequent legal name change, a marriage, or any other reason — the documentation trail requires a third bridging document that may or may not be readily available.

There is also the distinct challenge facing international adoptees. For a child adopted from abroad, the proof of citizenship pathway runs through a Certificate of Citizenship issued by the Department of Homeland Security, or a U.S. passport. The bill does list these as acceptable. The problem is that many families from the 1990s and early 2000s — the peak years of international adoption — never obtained a Certificate of Citizenship, either because they were unaware of the requirement or because they assumed the naturalization process had handled it. For those now-adult adoptees, proving citizenship

may require navigating a federal bureaucratic process they have never engaged with, and obtaining documents they were never told they needed.

None of this means the bill is silent on adoptees. It is not. But acknowledging a population in legislation and actually solving the problem for that population are two different things. The bill creates a narrow opening and assumes the documents that would fit through it exist. For many adoptees, they do not.

## **Born Before the System Was A System**

The deeper problem — and the one receiving the least public attention — is the population of Americans for whom no birth certificate exists because none was ever issued.

National birth registration did not achieve full compliance across all U.S. states until approximately 1933. Before that, and in many rural areas well into the mid-20th century, births were frequently attended by midwives or family members in private homes, and formal registration with a county or state office was inconsistent at best. A child born at home in rural Appalachia in 1942, or in a small farming community in the Mississippi Delta in 1948, may have entered the world with no official record of their arrival whatsoever.

This was not evenly distributed. Research has found that approximately one-fifth of Black Americans born in 1939 and 1940 were never issued birth certificates. The reasons are not subtle. Legal segregation meant that many Black women were denied access to hospitals. In the Jim Crow South, the officials running vital records offices often had little interest in recording Black births. Tens of thousands of Americans were born, in the most literal sense, off the grid — real people treated by the record-keeping infrastructure as if they did not exist.

And then there are the records that did exist but no longer do. County courthouses have burned. Floods have destroyed filing rooms. Paper ledgers from 1938 were not backed up to the cloud. "The records were lost in a fire" is not a cliché — it is a documented reality for dozens of counties across the American South and rural Midwest. When the courthouse burned, it took the only official copy of thousands of births with it. There was no duplicate filed elsewhere, no digital record, no recovery.

According to a national survey conducted by the Brennan Center for Justice, VoteRiders, and the Center for Democracy and Civic Engagement at the University of Maryland, more than 3.8 million voting-age American citizens do not have any form of

documentary proof of citizenship. No birth certificate. No passport. No naturalization certificate. No certificate of citizenship. Nothing the SAVE America Act would accept.

These are not undocumented immigrants. These are Americans, many of them elderly, who have paid taxes, served in the military, raised families, and voted for decades. The bill offers them no pathway.

## **The Passport Is Not a Workaround**

Supporters of the bill often respond to concerns about missing birth certificates by pointing to the passport as an alternative. This response misunderstands the problem. Obtaining a passport requires proving citizenship — which, for most people, means producing a birth certificate. If the birth certificate doesn't exist, the passport is not an accessible alternative. It is simply the same wall, painted a different color.

For rural Americans and low-income voters, the bill's in-person presentation requirement adds another layer of difficulty. Voters in some rural areas would face significant travel burdens simply to reach an election office. For any voter without reliable transportation, that requirement is not a minor inconvenience — it functions as a poll tax measured in miles and hours rather than dollars.

## **What the Bill Does Not Address**

Some earlier summaries of this legislation, as well as advocacy materials, referenced an affidavit provision that would allow applicants to attest to documentation gaps under penalty of perjury. The version of the bill passed by the House on February 11, 2026 contains no such provision. This matters significantly. Without an affidavit option, there is no administrative safety valve for the person who can demonstrate they are who they say they are through community history, tax records, school records, or any evidence short of the specific documents the bill enumerates.

The bill also establishes criminal penalties of up to five years for election workers who register an applicant who fails to present the required documentation — even if that applicant is, in fact, a U.S. citizen. This creates a powerful institutional incentive to err on the side of rejection, particularly when presented with unfamiliar document types or complicated documentation histories. For an elderly voter presenting a decades-old amended birth certificate from a closed adoption, or a tribal member with non-standard records, the risk is not merely bureaucratic. It is that a cautious election worker, facing potential criminal liability, will simply say no.

## **The Problem the Bill Is Solving Isn't A Problem**

It is worth being precise about the problem this legislation is designed to address. Non-citizen voting in federal elections is already illegal. States have existing tools to verify citizenship, including access to the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) program. Multiple states have conducted comprehensive reviews of their voter rolls specifically looking for non-citizen registrations.

Utah conducted a thorough citizenship review of its entire voter registration list — more than two million registered voters — concluding in January 2026. After a multi-step review process, the state identified one confirmed instance of non-citizen registration and zero instances of non-citizen voting. This is consistent with findings from similar audits across multiple states. Non-citizen voting in federal elections is vanishingly rare, is prosecuted when it occurs, and has never been demonstrated to have influenced the outcome of any federal election.

The bill's own sponsor acknowledged at a press conference that the number of non-citizens voting in federal elections is not "easily provable." That is an unusual foundation for legislation that will, by any honest accounting, create substantial new barriers for millions of verified American citizens.

## **A Reasonable Goal With Unreasonable Requirements**

The goal of ensuring that only citizens vote in federal elections is legitimate and widely shared. The question is whether requiring documentary proof at registration — with no affidavit alternative, no flexibility for documented gaps in historical records, an in-person presentation requirement, and criminal liability for election workers who make a wrong call — is a proportionate response to a problem that existing law already addresses and that audits consistently show to be extremely rare.

For the married woman who needs to bring a third document to the election office, the answer is inconvenient. For the 73-year-old man born in a farmhouse in rural Georgia whose birth was never officially recorded, whose county courthouse burned in 1965, and who has voted in every presidential election since 1972, the answer may be permanent disenfranchisement — not because he is not a citizen, but because the government that now demands his papers never bothered to issue them in the first place.

These are not obscure cases. They are Americans. And any honest conversation about this legislation has to reckon with what it will do to them.

