

February 9, 2022

Chairman Floyd Prozanski  
Senate Committee on Judiciary and Ballot Measure 110 Implementation  
Oregon State Legislature  
900 Court St. NE  
Salem, Oregon 97301

**Re: Senate Bill 1543, Bill Relating to Universal Representation**

Dear Chairman Prozanski and Members of the Committee:

On behalf of the Vera Institute of Justice (Vera), I am writing in support of SB1543, subject to amendments. We hope you will consider possible amendment(s) to ensure that the program implements best practices in the provision of immigration legal services and to support Oregon's investment in deportation defense.

**Background:**

Vera's mission is to end the overcriminalization and mass incarceration of people of color, immigrants, and people experiencing poverty. We work to transform the criminal legal and immigration systems until they are fair for all. Over the past fifteen years, Vera has led nationwide efforts to advance universal representation - the concept that, much like the public defender system in criminal court, every person facing deportation is entitled to a zealous legal defense regardless of income, race, national origin, or history with the criminal legal system.

Over the last fifteen years, the Vera Institute of Justice has designed, administered, and supported universal representation programs at the local, state, and federal levels that advance universal, zealous, person-centered representation for people in immigration proceedings.<sup>1</sup> Vera's programs now operate in 31 states and Washington, D.C., in approximately 200 detention centers, with over 100 legal service providers across the country, and serve up to 160,000 people a year. In 2017, Vera launched the [SAFE Network](#), a growing movement of communities advancing publicly funded, universal representation for immigrants facing detention and deportation. SAFE has partnered with 23 jurisdictions to launch universal representation programs in collaboration with government leaders, legal service providers, and community advocates, and utilizes data and evidence from these programs to evaluate impact and best practices.

**Oregon as a Leader in the Movement for Universal Representation**

Oregon has an opportunity through SB1543 to advance its leadership in support of its immigrant communities by funding universal representation. Unlike in the criminal legal system, there is no public defender system for people facing the devastating consequences of detention and deportation in immigration court. As a result, an estimated 70% must stand alone against a trained government attorney seeking to deport them. Representation makes a significant difference: immigrants who are represented

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<sup>1</sup> Vera Institute of Justice, A Federal Defender Services for Immigrants: Why We Need a Universal, Zealous, and Person-Centered Model (New York: Vera Institute of Justice, 2021), <https://www.vera.org/downloads/publications/a-federal-defender-service-for-immigrants.pdf>.

are 3.5 times more likely to be released from detention on bond and up to 10 times more likely to establish a right to remain in the United States.<sup>2</sup>

Universal representation programs bring dignity and due process into an unfair system and help keep families, businesses, and communities together. People helped through universal representation programs are deeply entrenched members of our workplaces and communities. SAFE clients have lived in the United States for an average of 14 years, and seventy-seven percent of SAFE clients are the primary breadwinners for their families.<sup>3</sup> Universal representation is widely supported by the public: an overwhelming 67 percent of people in the United States support government-funded lawyers for immigrants facing deportation.<sup>4</sup>

Oregon also has the opportunity to be a leader in the national movement for universal representation. There are now over fifty politically diverse jurisdictions across the country – including 8 states – that have stood up publicly-funded deportation defense programs.<sup>5</sup> As we continue to fight to achieve the right to federally-funded universal representation for everyone facing deportation, state programs will serve as important models for what a strong federal system could look like. Senate Bill 1543's \$15 million dollar investment into this program is the largest statewide investment in deportation defense funding. As such, Oregon could both expand access to representation for Oregonians who desperately need it *and* leverage this significant investment to implement best practices that set the standards for states that follow.

#### **Best Practice Recommendations:**

Senate Bill 1543 integrates many important and strong practices that have been critical in deportation defense programs in other jurisdictions, including prioritizing people in detention for representation, utilizing community-based navigators to provide community education and guide people into the program, and ensuring representation regardless of a person's prior contact with the criminal legal system or the type or complexity of their claim or defense.

Nevertheless, based on our experience, we believe that the proposed bill should incorporate the following best practices to further strengthen Oregon's commitment to ensuring that everyone served under the program receives a zealous and person-centered defense.

**Ensuring Early and Continuous Representation:** We urge the adoption of measures that will ensure early and continuous representation for everyone served under the program. Continuity of representation – also known as “vertical representation” - is a best practice of federal, state, and local immigration representation programs, and is one of the American Bar Association's Ten Principles of a Public Defense Delivery System.<sup>6</sup> Continuity of representation helps achieve the best possible outcomes by providing attorneys and clients with the time to build trusting relationships, investigate the facts and potential avenues for relief, and develop a strong and comprehensive legal defense. It also avoids retraumatizing

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<sup>2</sup> Ingrid V. Eagly and Steven Shafer, “A National Study of Access to Counsel in Immigration Court,” *University of Pennsylvania Law Review* 164, no. 1 (2015), 9, <https://perma.cc/7J65-CZCM>.

<sup>3</sup> Vera Institute of Justice, *Rising to the Moment: Advancing the National Movement for Universal Representation (Years 1-3 of the SAFE Initiative)* (New York: Vera Institute of Justice, 2020), 9, <https://www.vera.org/downloads/publications/rising-to-the-moment.pdf>.

<sup>4</sup> Vera Institute of Justice, *Taking the Pulse: Public Support for Government-Funded Attorneys in Immigration Court* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/publications/taking-the-pulse>.

<sup>5</sup> The states include California, New York, Oregon, Washington, Illinois, New Jersey, Colorado, Nevada.

<sup>6</sup> American Bar Association, *Ten Principles of a Public Defense Delivery System* (Chicago: American Bar Association, 2002), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_def\\_tenprinciplesboklet.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_tenprinciplesboklet.pdf).

clients by not requiring them to repeatedly relive past traumas with different attorneys at each stage of proceedings.<sup>7</sup>

We understand that the Equity Corps of Oregon (ECO) program that preceded this bill did not incorporate this practice and instead relied on limited-scope representation of people in the early stages of their proceedings, often resulting in someone being represented by multiple different legal service providers at discreet stages of their case. With the increased resource investment through SB1543, we strongly urge eliminating the use of limited-scope representation and requiring that everyone served under the program receive representation that begins as **early** as possible in immigration proceedings and is **continuous** with the same legal service provider, to the extent reasonably possible, through the conclusion of proceedings.

**This could be accomplished by** 1) amending Section 2(2)(f) *to require the use of best practices, including early and continuous representation*, and 2) shifting the resource allocations referenced in Section 2(7) so that the program administrators could achieve this end.

This early placement of client's case with the legal service provider would also promote and reinforce the optimal role for all stakeholders involved. The program administrator or clearinghouse would be charged with assessing a potential client's eligibility for representation under the program (here, their residency and income level) before placement with a legal service provider, while avoiding involvement with case-level assessment or decision making. This would leave the legal services providers responsible for identifying clients' needs and potential claims for relief and leveraging the resources needed to advance that legal strategy, which can only usually occur after a period of relationship-building between the attorney and client.

We urge you to consider the above proposed amendments to SB1543 to help create the structural conditions that will leverage Oregon's significant investment to set the standard for universal, zealous, and person-centered statewide representation for other states.

Sincerely,

Michael Corradini

Associate Director for Universal Representation Design  
Advancing Universal Representation Initiative  
Vera Institute of Justice

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<sup>7</sup> Liz Kenney, Karen Berberich, Corey Lazar, Michael Corradini, and Tania Sawczuk, *Advancing Universal Representation: A Toolkit – Module 3: Implementing the Vision* (New York: Vera Institute of Justice, 2021), 24-25, <https://www.vera.org/advancing-universal-representation-toolkit/implementing-the-vision>.