

The Next Frontier for Universal Representation: State Legislation for Publicly Funded Deportation Defense

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Chapter I: Introduction

More than 55 cities, counties, and states across the country have committed public funding to deportation defense as one of several ways that governments can take action to protect immigrant families and community members in their jurisdictions.¹ Under a federal administration that is actively hostile toward immigrants and has promised to execute mass deportation, there is a heightened need for urgent intervention at the state level to protect people seeking safety and stability, as well as political and economic freedom in this country.

Even when their lives are on the line, most immigrants are forced to represent themselves against deportation simply because they cannot afford a lawyer. Unlike in criminal cases, where everyone is guaranteed the right to an attorney, there is no right to a government-provided lawyer in the immigration system—despite the potential consequences of being permanently separated from U.S. citizen children and family members and being exiled to another country that may be unfamiliar or even dangerous. Immigrant legal defense programs prevent needless deportations: People represented by lawyers in immigration court are up to 10.5 times more likely to achieve a successful outcome on their case than people who defend themselves. Enabling people to access their legal right to stay in the country supports family unity, economic stability, and community strength.

In recognition of the need for state-level intervention, states are building on city and county deportation defense programs by crafting state budget and legislative interventions to provide representation for people in deportation proceedings. Currently, 10 states—California, Colorado, Hawai`i, Illinois, Maryland, Nevada, New Jersey, New York, Oregon, and Washington—have established state-funded representation programs through legislative interventions and funding mechanisms. Advocates and legislators are actively looking to expand on those policies and advance similar protections in other states.

While the long-term goal is to secure a federal right to representation for those who cannot afford private counsel by passing the Fairness to Freedom Act, states are the next frontier for building and sustaining representation—ideally, universal representation—programs. The universal representation model ensures equitable access to representation under the program—to the extent of funded capacity—regardless of the perceived likelihood of the case succeeding or the client’s previous contact with the criminal legal system. In doing so, states reaffirm the principle of due process for all, restore human dignity to an otherwise dehumanizing process, and combat racial bias in our immigration laws. This allows states to protect people entangled in an outdated immigration system in desperate need of federal reform as well as to stabilize their own economies and communities.

How to use this guide

The purpose of this guide is to provide an overview of current legislation, including bills that have been enacted as well as those that have been introduced. While each bill contains provisions tailored to its state’s circumstances, the structure of this type of legislation generally contains a preamble with context and definitions, clauses governing program design, and mechanisms for implementation and oversight. This guide is organized according to those sections and references discrete portions of relevant laws as examples.

This guide is meant to be informative and instructive, but not prescriptive. Advocates and government officials should decide what is most feasible and strategic for their state. The information contained throughout presents options to consider depending on a state’s needs and political conditions. Additionally,

references to counsel or legal representation throughout this document are intended to include accredited representatives who are authorized to represent people in immigration court.

This resource includes an overview of relevant legislation and budgetary measures. Inclusion in this resource is not necessarily Vera's endorsement of the applicable legislation or the policy and design provisions therein.

Readers can choose to read this guide in full or go directly to the sections most relevant to them.

Chapter II: Initial Components of State Policy

Before a law's passage, stakeholders should develop a robust policy and program framework to align the goals and scope of the anticipated program. This work includes engaging in strategic conversations with service providers, impacted community members, campaign partners, coalitions, and government officials about needs and priorities; learning from pilot programs in other states; and exploring funding models such as public appropriations, grants, or partnerships with nonprofit organizations.

Campaigns must learn from impacted community members and raise awareness about the need for universal representation, including comprehensive research and data collection to highlight gaps in current legal services and the broad adverse effects of lack of representation on immigrant communities. Stakeholders can engage in advocacy and outreach to educate the public and policymakers about the consequences of deportation and detention without access to legal counsel. Local organizations and legal services providers can gather testimonies and case studies to support this outreach. For more information on building campaigns for universal representation, refer to [Module 2 of Vera's Advancing Universal Representation Toolkit](#).

I. Determining the Scope of the Policy

Advocates have advanced access to representation in immigration court through three discrete state legislative mechanisms, some more successfully than others: (1) passing funding for representation through a state appropriations process, (2) creating a deportation defense program by statute, and/or (3) advancing a state-based right to counsel in immigration proceedings.

a. Passing Funding Through an Appropriations Process

Hawai`i, Illinois, Maryland, Nevada, New Jersey, New York, and Washington have funded access to counsel in immigration court through a budget appropriations process. These appropriations have included the amount of funding, the administering department, and a high-level description of the program's purpose, leaving specific design and implementation details for program administrators. While this is often just the first step in a longer-term process of establishing a continuous and sustainable program, funding a program through appropriations tends to be more efficient than traditional legislation, as it builds on existing programmatic infrastructure. However, legislation can be more secure and sustainable, and some of these states have also advanced legislation to varying degrees of success, as discussed further throughout this document.

New Jersey (2023)

"In addition to the amount appropriated for Legal Services of New Jersey, \$8,200,000, subject to the approval of the Director of the Division of Budget and Accounting, shall be made available by the Department of Human Services to one or more qualified organizations as determined by the Commissioner of Human Services for the provision of legal services and related costs to individuals at risk of detention or deportation based on their immigration status."²

Washington (2024)

Allocated \$8 million in fiscal year 2024 and again in fiscal year 2025 for the Department of Commerce's Community Services Division "to contract with organizations and attorneys to provide either legal representation or referral services for legal representation, or both, to indigent persons who are in need of legal services for matters related to their immigration status."³

In states where broader universal representation legislation is not feasible, advocates can consider advancing an appropriations-only strategy through the state budget. For example, in both Hawai`i and

Maryland, advocates attempted to codify their legal services programs beyond annual appropriations by introducing state legislation. Neither bill has passed the state legislature, but both states secured funding for legal services through their respective appropriations processes and identified state entities to administer that funding: the State Judiciary in Hawai`i and the Legal Services Corporation in Maryland.⁴

The inclusion of program funding within a state agency budget may spark less resistance than statutory policy from those who would otherwise be political opponents. Additionally, legislative-facing agency staff can be trained to advocate for continued funding. An appropriations-only strategy, however, risks the nonrenewal of funding, especially if the funding is not turned into a line item that appears in the budget as a default and must be amended or removed through the legislative process.

Moreover, when considering annual state funding amounts, advocates and legislators should remember to allocate dedicated funding to building up organizational capacity, cultivating a pipeline of professionals in the immigrant legal defense field, and supporting programmatic scaling over time to meet the full need in the state, particularly as demand for representation continues to grow. The section “Timeline for Implementation & Scaling” addresses this concern in further detail.

b. Creating a Statutory Universal Representation Program

Advocates in California, Colorado, and Oregon spearheaded the creation of universal representation programs (sometimes referred to as “funds”) in their respective states through the legislative statutory process.

California (enacted 2015)

“(a) Subject to the availability of funding in the act that added this section or the annual Budget Act, the department shall provide grants, as described in subdivision (b), to organizations qualified under Section 13304.

(b) Grants provided in accordance with subdivision (a) shall be for the purpose of providing one or more of the following services, as determined by the department: (1) Services to persons residing in, or formerly residing in, California, including, but not limited to, any of the following:

(A) Services to assist with the application process for initial or renewal requests of deferred action under the DACA policy with the United States Citizenship and Immigration Services.

(B) Services to obtain other immigration remedies and benefits.

(C) Services to assist with the naturalization process and an appeal arising from the process.”⁵

Colorado (enacted 2016)

“There is established in the state treasury the immigration legal defense fund. . . . [T]he Administrator is authorized to make grants from the fund to qualifying organizations to represent indigent individuals appearing before an immigration court in Colorado who lack private counsel.”⁶

Oregon (enacted 2022)

“A nonprofit organization registered in this state that addresses and executes worker relief as the organization’s primary purpose shall serve as the fiscal agent to award grants to organizations to provide services related to immigration matters through a universal representation program.”⁷

“The Universal Representation Fund is established in the State Treasury, separate and distinct from the General Fund . . . for providing a statewide integrated, universal navigation and representation system for immigration matters.”⁸

While Oregon’s statute is the only one of these that explicitly mentions a “program,” all three laws establish basic programmatic infrastructure through a grant or fund dedicated to immigration legal services.⁹ Some programs, like the One California (“One CA”) program and Oregon’s program, provide a broad range of immigration legal services, including both affirmative and defensive representation. Others, like Colorado’s fund, focus more specifically on removal defense. By codifying programs via statute, states establish a foundation for the existence and continuity of programs and can advocate for renewed or expanded appropriations based on the incremental successes of the program and community needs.

Continuous and sustainable funding is necessary for establishing a program that can scale up to meet the needs of immigrant communities over time. For example, the One CA program was created in 2015 with a funding level of \$15 million in one-time funds. Since then, One CA has grown in its scope of representation and funding levels. In subsequent years, advocates successfully fought to amend the statute and create an ongoing investment, now at a rate of \$45 million, to ensure stable, continuous funding for removal defense and other initiatives.¹⁰ In recent years, this ongoing investment of \$45 million for One CA has been supplemented with an additional \$30 million for other immigration legal services initiatives.

In 2025, advocates in Massachusetts are pursuing a similar statutorily created program with SD 2057, “An Act Ensuring Access to Equitable Representation in Immigration Proceedings.”¹¹ Hawai`i-based advocates are attempting the same with HB 438 and SB 816 during this session.

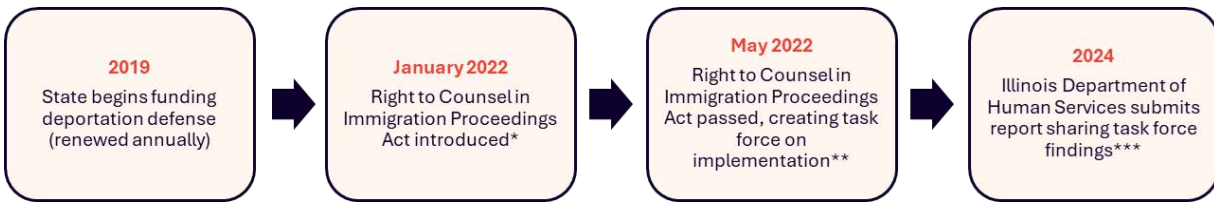
c. Creating a State Right to Counsel in Immigration Proceedings

Advocates and lawmakers in Illinois and New York are working to create a recognized right to counsel at the state level in immigration proceedings. Both states have successfully secured state-level appropriations for universal representation for years and are now attempting to advance a right to counsel to further expand and solidify the state’s support. Unlike in a purely appropriations approach that funds a certain level of legal services capacity, a right to counsel would guarantee representation for everyone who falls under the programs and may, in theory, provide a remedy if the right were violated.

Illinois (2022)

“It is the public policy of this State that all covered individuals should have the right to ongoing legal representation in covered proceedings. This right to counsel should include provisions of funds sufficient to ensure that legal service providers are funded. . . . This State should establish a program and a dedicated fund to provide the legal services.

The Task Force on Counsel in Immigration Proceedings is established. . . . The Task Force shall investigate the implementation of universal representation for covered individuals in immigration removal proceedings.”¹²



* Illinois SB3144 (2022),

<https://www.ilga.gov/legislation/BillStatus.asp?GA=102&DocTypeID=SB&DocNum=3144&GAID=16&SessionID=110&LegID=137862>.

** 20 Ill. Comp. Stat. § 4112, <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4295&ChapterID=5>.

*** Right to Counsel in Immigration Proceedings Task Force, *Final Report* (Chicago: Illinois Department of Human Services, 2024),

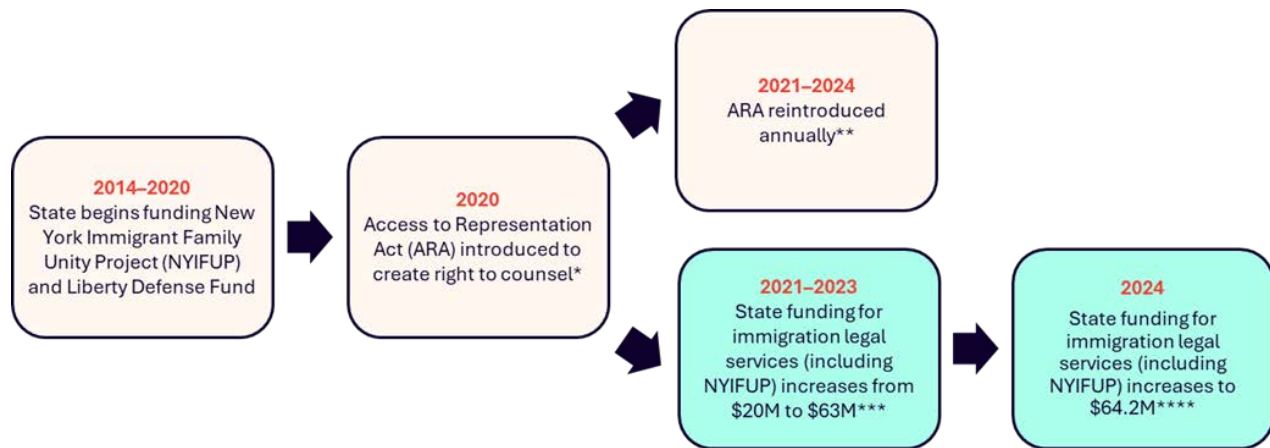
https://www.ilga.gov/reports/ReportsSubmitted/4977RSGAEmail10605RSGAAttachRight%20to%20Counsel%20in%20Immigration%20Proceedings%20Task%20Force_signed.pdf.

As outlined in the timeline, Illinois has funded immigration legal services through the Illinois Access to Justice program since 2019.¹³ In 2022, the Illinois Right to Counsel in Immigration Proceedings Act was enacted, which established that people facing deportation have a right to universal representation but did not explicitly include funding to guarantee that right, nor have a clear method of implementation.¹⁴ The state delegated the tasks of investigation and developing a programmatic proposal to a smaller group of experts.¹⁵

New York (proposed; reintroduced 2025)

“(a) Ensure that all covered individuals be advised of their right to counsel and be offered legal services as provided in paragraph (a) of subdivision two of this section;
(b) ensure independent, competent, high quality, and zealous representation of covered individuals receiving legal services provided pursuant to this section;
(c) examine, evaluate, and monitor legal services provided pursuant to this section;
(d) collect and receive information and data regarding the provision of legal services not protected by attorney-client privilege, work product privilege, or any other applicable privilege, or that can be disclosed by legal services providers without violating the New York Rules of Professional Conduct. . . .”

“The state shall establish a dedicated fund and shall appropriate sufficient sums into such fund to fully carry out the requirements of this section. Funds necessary to fully carry out the requirements of this section shall be determined annually by December first of each year by the Secretary of State, in consultation with the administrator and the Director of the Division of the Budget upon review of [a required report].”



* Access to Representation Act, New York A270 (2025), <https://www.nysenate.gov/legislation/bills/2025/A270>.

** New York Immigration Coalition, “What Is the Access to Representation Act?” <https://www.nycic.org/our-work/campaigns/access-to-representation/>.

*** See New York SB 2503C (2021), 1089–1092, <https://legislation.nysenate.gov/pdf/bills/2021/s2503c>; New York SB 8003D (2022), 1148–1149, <https://legislation.nysenate.gov/pdf/bills/2021/s8003d>; and New York SB 4003D (2023), 1196–1197, <https://legislation.nysenate.gov/pdf/bills/2023/s4003d>.

**** See New York SB 8303D (2024), 1269, <https://legislation.nysenate.gov/pdf/bills/2023/s8303d>.

In New York, the New York Immigrant Family Unity Project (NYIFUP) launched with state funding in 2014 and was able to scale to statewide in 2017 with the creation of the Liberty Defense Fund.¹⁶ These programs have repeatedly demonstrated the positive impact that state investments can have. Nevertheless, advocates must return to Albany annually to campaign for funding renewals and increases, which requires enormous effort on the part of the organizers. Moreover, these efforts do not guarantee that the state will invest enough resources to sustain programs or expand them to the extent required to fill gaps in legal services in the state.

Attempting to design a more stable and sustainable strategy, advocates created the Campaign for Access, Representation, and Equity for Immigrant Families to secure a legislatively created right to counsel—and the funding needed to secure that right—through the Access to Representation Act.¹⁷ This legislation has been reintroduced every year since 2020. While the bill has not been passed, it has served as a tremendous educational vehicle to support and advocate for continued and expanded appropriations.

To the extent possible, advocates and legislators should build in implementation and budgetary guardrails when drafting state laws to ensure that a state-based right to counsel is meaningful and that everyone has access to representation under the program, as discussed in more detail in the “Oversight and Accountability” section.

When creating a state-based right to counsel for people navigating a federal immigration system, there are unique challenges to consider. For example, when a person’s right to counsel is violated by the state in its own criminal legal system—by either not being provided counsel or receiving inadequate access to or assistance from counsel—they can make an ineffective-assistance-of-counsel claim with the state courts on appeal or collateral review. The remedy may include a retrial or a different case outcome, which gives individualized relief for the violation and incentivizes the state to be accountable to its obligations. However, states do not have comparable authority or accountability mechanisms in the federal immigration system. If state-provided counsel is inadequate—or is not provided at all—the state cannot compel a federal court to re-examine an immigration case.

Ultimately, the establishment of a federal right to government-provided counsel for people at risk of deportation will resolve these concerns. The 2023 Fairness to Freedom Act, which is anticipated to be reintroduced in this legislative session, sets forth a federal right to universal representation for immigrants facing deportation who cannot afford private counsel. If a person's right to government-funded counsel is violated, that bill provides the equitable remedy of the government terminating a person's immigration case, providing the federal government with a clear incentive to comply with the law. Until passage of a federal right to government-provided counsel in immigration court is achieved, state legislation to establish a right to counsel can provide a valuable tool to advance universal representation at the state level, serving local community members at risk of deportation, supporting a strong immigration legal services infrastructure, and building momentum for federal action.

Related Legislation: Capacity Building

New York advocates are advancing a second legislative campaign to address the legal capacity building and scaling needed for increased state investments in legal defense and full implementation of the Access to Representation Act should it pass. Modeled after the [Securing Help for Immigrants through Education and Legal Development Act](#) introduced in the House of Representatives in July 2024, New York's proposed [Building Up Immigrant Legal Defense Act](#) would create a grant program targeted at developing the legal services workforce (attorneys, social workers, accredited representatives, and community navigators) and other programmatic infrastructure needed to fully meet the long-term need for representation in New York.

II. Findings (Preamble)

Many states' bills include findings (also referred to as a preamble) that establish the basis or values underlying the need for the state to address access to counsel in immigration proceedings. Findings can allude to unique, state-specific circumstances like data outlining the need for counsel and any successful pilot programs in the state and their impacts on outcomes, family unity, the economy, and more. A preamble can also help memorialize the lawmakers' intent by outlining consistency with and commitment to other state policies and values. The examples that follow offer a variety of ways to organize a preamble/findings section.

Colorado's findings compellingly highlight its commitment to immigrants as a "welcoming state." They also point out the economic impact of immigration and a potential \$18.6 million in cost savings from the program.¹⁸

Colorado (enacted 2021)

"(a) Colorado is a welcoming state that believes that separating families harms our communities and our state. We recognize the many contributions that immigrants have made, historically and today, to Colorado's economy, communities, and culture. Tearing Coloradans away from their communities causes harm, financial instability, and trauma that radiates throughout the state.

(b) Although immigration detention and proceedings are civil in nature, immigrants are subjected to adversarial legal proceedings and are often detained throughout their legal cases. Additionally, according to Transactional Records Access Clearinghouse data, seventy percent of immigrants

detained in civil immigration custody in Aurora, Colorado, faced deportation hearings without a lawyer.

(c) Many people in immigration court proceedings have valid legal claims to remain in the United States but are unable to argue their cases effectively absent legal expertise in complex U.S. immigration law. Only five percent of immigration cases were won between 2007 and 2012 without an attorney, while ninety-five percent of successful cases involved persons who were represented by an attorney.

(d) Deportations and immigration detention are costly to Colorado communities, taxpayers, and employers. A recent report from the Colorado Fiscal Institute shows Coloradans could save nearly \$18.6 million by providing universal representation for Coloradans in immigration court, thereby supporting families with legal fees, saving employers turnover costs, and allowing individuals to work and remain with their families as they fight their immigration cases.”¹⁹

Meanwhile, Illinois compares the representation rate of its residents in removal proceedings to that of the rest of the country and cites the broader impacts of legal representation to set the foundation for the remainder of the legislative text.

Illinois (enacted 2022)

“(a) The State is committed to fair and equal treatment of all individuals, and, in particular, of individuals at risk of removal and separation from their families through the federal immigration detention and deportation system.

(b) While an individual in removal proceedings has the right to legal representation, the representation is at the individual's own expense and may be beyond the financial capacity of low-income households.

(c) Nearly two-thirds of all individuals facing immigration removal proceedings throughout the United States lack legal representation. Among the individuals in immigration detention, only one in 6 individuals were represented by counsel. Among the individuals facing removal proceedings in this State, less than one in 3 individuals, generally, and less than one in 8 individuals in detention were represented by counsel.

(d) Legal representation is essential to effective identification and presentation of avenues for release from detention and relief from removal. Individuals in immigration detention are 4 times more likely to win release if represented by legal counsel than individuals without representation by legal counsel. In removal proceedings, detained individuals are 11 times more likely to succeed in claims for relief if represented by legal counsel than individuals without representation by legal counsel.

(e) Legal representation in removal proceedings has improved the efficiency of the proceedings and the administration of justice as individuals are better able to present their defenses and claims for relief.”²⁰

Maryland’s bill addresses state-specific data about the needs of immigrant families and children and draws on the success of local universal representation programs to justify a statewide program. Moreover, the bill establishes a core principle underlying universal representation: By emphasizing the inherent racial bias in immigration proceedings, this legislation implies that a statewide universal representation program would help mitigate those impacts and create equity in the provision of legal services.

Maryland (introduced 2022)

“WHEREAS, More than 400 Marylanders are forced to fight permanent separation from their family and community in detention every year; and

WHEREAS, At least 7 out of 10 detained Marylanders are unable to access counsel in immigration proceedings; and

WHEREAS, More than 600 children of detained Marylanders are harshly and needlessly impacted each year by a parent being placed in immigration detention; and

WHEREAS, Legal representation dramatically increases the chance that an individual achieves a successful outcome in their immigration case; and

WHEREAS, Universal representation pilot programs in Baltimore City and Prince George’s County have helped to keep many Maryland families together over the past 3 years; and

WHEREAS, Immigration proceedings have a disparate impact on black and brown households; and

WHEREAS, Providing access to counsel to Maryland residents in immigration cases is a proven means of keeping families and communities together and avoiding the resulting social, economic, and public health costs of deportation; and

WHEREAS, Maryland residents must be able to access legal representation in any immigration proceeding where their liberty is at stake to provide for equal access to justice and the courts; and

WHEREAS, It is the policy of the State that residents facing deportation shall have access to legal representation in immigration proceedings, and the State shall provide access to such representation to Maryland residents to assist in the fair administration of justice.”²¹

By contrast, the comparable legislation in California, Nevada, New York, and Oregon does not contain any findings, illustrating that while a preamble can be a powerful way to underscore the need for legislation, it is not a requirement.

III. Definitions

Each bill will need to include a series of definitions. The defined concepts and roles will differ slightly but generally include the following:

- Administrator
- Covered person
- Covered proceeding
- Covered venue
- Domicile/Resident
- Legal representation
- Qualifying legal service provider

While the terminology may differ from state to state, the definitions section ultimately determines how broadly or narrowly aspects of the intended program or right can be applied. Chapter III, “Program Design,”

demonstrates the ways in which defining these concepts can determine the “who, what, when, where, and how” of representation under a given program.

Chapter III: Program Design

Effective universal representation program design requires a strategic approach that integrates best practices and lessons learned from existing initiatives while maintaining flexibility to adapt to changing trends and federal enforcement priorities. Universal representation programs are predicated on the fundamental belief that every individual facing deportation deserves due process and access to legal representation. This requires eliminating client selection criteria that perpetuate inequity in the distribution of legal services, such as criminal exclusions, so that everyone facing deportation is represented regardless of their history with the criminal legal system, the perceived likelihood of winning their case, or any other factors.

As discussed in more detail in Vera’s universal representation toolkit [Module 3: Implementing the Vision at the Local and State Level](#), under ideal circumstances, every person facing deportation will receive representation that begins as early as possible and continues throughout the entirety of the case, encompassing all necessary legal proceedings and including appeals and collateral matters. Programs should prioritize person-centered zealous advocacy, challenging the government at every step to ensure a fair and just process. However, programs across the country are grappling with a significant unmet need for representation. To support people who do not receive full-scope representation in their proceedings, advocates and legal services providers are deploying a range of interventions—including pro se clinics, legal empowerment programs, and limited scope representation. Program design choices in legislation should contemplate this full range of services.

Some legislation sets forth clear and definitive design parameters for the program, such as eligibility and scope of representation, while other legislative language grants authority to the program’s administrator to determine specifics. Advocates should consider whether there is a clear vision on program design and how to integrate legislative language to reflect that vision, or whether there are areas that are best left to be determined through an advisory committee or the administrator.

I. Eligibility Criteria

State legislation often sets forth criteria that make a person eligible for legal representation services. The universal representation model ensures equitable access to representation under the program—to the extent of funded capacity—regardless of the perceived likelihood of the case succeeding or the client’s previous contact with the criminal legal system. Not every piece of state legislation strictly follows this approach; for example, legislators imposed criminal exclusions in the One CA program that undermine the state’s interest in ensuring access to due process for all of its residents.²²

In general, legislation tends to define a program’s eligibility requirements, but some bills will defer to other entities, such as the administrator or service provider, to establish criteria for eligibility.

a. Residency Requirements

If a state chooses to impose a residency or domicile requirement for purposes of eligibility, advocates should try to define it as broadly as possible. A broad residency requirement helps reflect the reality that our federal immigration enforcement and court system does not confine itself to state borders. For example, an immigration court in one state may have jurisdiction over people’s cases from adjacent states. Additionally, U.S. Immigration and Customs Enforcement (ICE) frequently moves people throughout its enormous nationwide [detention and deportation network](#) regardless of their prior residency. When a person is forcibly transferred from one ICE detention facility to another, they risk losing counsel and access to community supports that are critical to their immigration case and overall well-being.

States have approached residency requirements in various ways:

California (enacted 2016)

“Services to persons residing in, or formerly residing in, California. . . .”²³

New York (reintroduced 2025)

“(b) ‘Covered individual’ means any income-eligible individual in detention in New York, transferred from detention in New York to immigration detention in another state, or who is subject to removal or inspection pursuant to 8 U.S.C. § 1229a or 8 U.S.C. § 1225 and their implementing regulations, or subject to a final order of removal under 14 C.F.R. § 1241.1, regardless of age, in a covered proceeding who is:

- (i) a New York state domiciliary who is a non-United States citizen;
- (ii) a New York state domiciliary who is a United States citizen or whose United States citizenship is in dispute; or
- (iii) any individual whose proceedings have a significant nexus to New York state such that they should be provided relief under this statute.

Significant nexus shall be established in the following circumstances: if an individual is in detention or incarcerated in the state of New York, if an individual is transferred by federal immigration authorities from New York to immigration detention in another state, if an individual has an immigration case in a tribunal located in the state of New York, if an individual is a New York domiciliary and detained by federal immigration authorities anywhere in the United States, if an individual had an immigration case located in a tribunal in New York before being transferred by immigration authorities from detention in New Jersey to immigration detention in another state or, as determined by the administrator or designee of the administrator.”²⁴

b. Exclusions

An exclusion—sometimes referred to as a “carveout”—is a provision that prohibits some people from accessing publicly funded counsel. Some only support representation for people whom they perceive as “good” immigrants and propose carveouts that exclude people with certain criminal convictions from programs, reinforcing the flawed notion that some people are worthier of due process than others. Perpetuating this problematic “good” versus “bad” immigrant narrative goes against the goals of a universal representation program that is firmly grounded in the belief that everyone facing deportation should have access to an attorney regardless of why they are in court. These carveouts create significant barriers to an equitable legal services program. Black and brown immigrants who have been racially profiled and criminalized by police are then funneled into the detention and deportation system, where they face a higher risk of deportation than other groups.²⁵ Denying an attorney based on contact with the criminal legal system compounds these injustices and deprives people access to due process, including those who have lawful claims to stay in the United States despite their conviction.

Case Study: California's Criminal Exclusions



* Due Process for All Act, California SB6 (2016), <https://legiscan.com/CA/text/SB6/id/1542579>.

** California AB617 (2023), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB617.

*** California AB2031 (2024), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2031.

In 2015, California coalition members successfully funded immigration legal services as part of the state's One CA program.²⁶ In 2016, advocates introduced the Due Process for All Act to further fund representation for people facing removal, but the legislation was met with anti-immigrant sentiment, and a criminal carveout was amended into the bill. Ultimately, the bill did not pass.

Advocates pivoted to a budget strategy instead. Although the funding passed, it was also subject to a criminal carveout which remains today. Providers and advocates have continuously reported that the clause requiring them to screen and decline representation for people with certain conviction histories undermines the program's goals and is administratively burdensome to implement. In February 2023, the Representation, Equity, and Protections for All (REP4All) bill, AB617, was introduced to amend the statute to eliminate these exclusions, among other things.

REP4All did not pass after it was met with vitriolic anti-immigrant backlash, and the REP4All Coalition is currently re-strategizing.²⁷ California's experience demonstrates the necessity for both short-term and long-term advocacy strategies to ensure a program delivers due process for everyone facing deportation.

c. Financial Eligibility

To determine if someone is eligible for free legal representation, legislation will often look to a person's income and ability to hire a private attorney, ensuring that limited representation resources are reserved for people who cannot afford private counsel. While a state may define financial need in different ways, many states reference federal or state poverty guidelines. Some legislation, like Maryland's, helpfully integrates existing income standards for state legal services, while other legislation is silent on how to define income eligibility, leaving it to a program administrator to define.

Colorado (enacted 2021)

“‘Indigent’ means a person whose household income does not exceed two hundred percent of the Family Federal Poverty Guidelines, adjusted for family size, determined annually by the United States Department of Health and Human Services.”²⁸

Maryland (Introduced 2022)

“(B) ‘Covered individual’ means an individual detained in the United States who is not represented by counsel and is:

- (1) A Maryland resident; and
- (2) A member of a household with an income that is not greater than 50% of the median income, adjusted for household size, in the state as determined by the United States Department of Health and Human Services.”²⁹

Types of Cases

Under a universal representation model, the goal is to support people by providing representation at every stage of their immigration case, including ancillary legal matters that may otherwise impact their families and livelihoods as well as their defense against removal. There may be different types of cases, proceedings, and case matters that trigger representation under the statute, typically referred to as “covered proceedings.”

d. What Kinds of Proceedings Qualify for Representation?

State legislation often details the types of legal proceedings that trigger representation under the program, as well as whether representation will extend to related proceedings. Although some states like Illinois and New York account for specific types of proceedings that may qualify for representation, the Maryland bill contains a broad catchall for collateral matters related to a person’s immigration case, including cases with the U.S. Citizenship and Immigration Services or in non-immigration state and federal courts, which may impact the outcome of the immigration case. In contrast, Oregon’s statute defers to the implementing parties to decide what types of “services related to immigration matters” qualify for representation.³⁰

Illinois (enacted 2022)

“‘Covered proceeding’ means any proceeding in which a covered individual is a party and is seeking an avenue of relief from removal from the United States or is challenging his or her arrest or detention under the Immigration and Nationality Act and its implementing regulations. ‘Covered proceeding’ includes:

- (1) a proceeding or hearing in an immigration court and any related application to United States Citizenship and Immigration Services connected to the proceeding or hearing;
- (2) an immigration proceeding conducted by telephone or video teleconference;
- (3) a proceeding in a State court for purposes of obtaining a special findings order;
- (4) a proceeding in a State court for purposes of vacating a conviction or modifying a sentence in which the conviction or sentence is relevant to the immigration proceedings at issue;
- (5) a credible fear interview or reasonable fear interview;

- (6) a habeas corpus petition to a federal district court challenging detention under the Immigration and Nationality Act;
- (7) a motion to reopen or reconsider under 8 U.S.C. 1229a;
- (8) a petition for review under 8 U.S.C. 1252;
- (9) a remand to a federal district court from the United States Court of Appeals for fact-finding purposes; and
- (10) any appeal related to any of the foregoing to the Board of Immigration Appeals, the United States Court of Appeals, or the United States Supreme Court.”³¹

New York (2023; reintroduced 2025)

“(c) ‘Covered proceeding’ means any proceeding in a covered venue in which a covered individual is seeking an avenue of relief from removal from the United States, or is challenging his or her arrest or detention under the Immigration and Nationality Act (‘INA’), as amended, and its implementing regulations. A covered proceeding includes, if applicable, a proceeding or hearing in immigration court; a proceeding in New York state family court for purposes of obtaining a special findings order; a habeas corpus petition to a federal district court located in New York challenging detention under the INA; motions to reopen or reconsider under 8 U.S.C. § 1229(a); a petition for review under 8 U.S.C. § 1252; a remand to a federal district court from the United States Circuit Courts of Appeals for fact-finding purposes; and any appeal related to any of the foregoing to the Board of Immigration Appeals, the United States Circuit Courts of Appeals, and/or the United States Supreme Court.”³²

Maryland (Introduced 2022)

“(C) ‘Covered Proceeding’ means a judicial or administrative proceeding where a covered individual is subject to removal from the United States, or a related proceeding, including:

- (1) Habeas corpus proceedings;
- (2) Federal appeals; or
- (3) Any other civil legal matters affecting a covered individual’s removal proceedings.”³³

Oregon (enacted 2023)

“(4)(a) The Chief Justice of the Supreme Court shall transfer funds appropriated for this purpose to the Oregon State Bar for use by the Legal Services Program established under ORS 9.572 to provide legal services to individuals on immigration matters and related matters, including but not limited to the provision of general legal information and legal referral services designed to increase access to the justice system.”³⁴

Practice Tip

Defending someone against deportation is extremely complex and can require an attorney to present or defend multiple claims—sometimes in multiple courts—to terminate a person’s proceedings or meet the high burden of proof needed to win relief in immigration court. Therefore, advocates should call for representation in collateral proceedings in the covered proceedings/scope of representation. This should include representation in habeas corpus litigation, for post-conviction relief, and in other forums required to qualify for relief from deportation. For example, in some cases young people must obtain a judicial order from a family or state court to qualify for Special Immigrant Juvenile Status, a form of relief the U.S. Citizenship and Immigration Services grants to young people who have been abused, abandoned, or neglected.

II. Deployment of Representation

Deployment of representation refers to when representation begins, how long it lasts, and what (if any) potential conflicts of interest would impact representation. While some states do not explicitly define this process in their legislation—opting instead to leave it to the discretion of an administrator or other authoritative body—it is important to think through in advance the logistics of how and when people will access counsel under the program. People should be aware of and able to access the legal services available to them in a timely manner to make a meaningful impact on their case outcome. Providers should support collaborative outreach strategies to identify and connect with potential clients. Advocates and legislators should consider the capacity of the provider over time and try to anticipate complications that may arise during representation.

a. When Does Representation Begin?

Some state statutes do not specify the timing of representation. However, legislation that does address when representation starts generally prioritizes early intervention, beginning representation as soon as a person is detained or receives a charging document. In practice, this requires substantial coordination and collaboration among providers, advocates, and government partners.

Maryland (introduced 2022)

“If feasible, legal representation under this subtitle shall begin not later than the time of the individual’s first scheduling appearance in a covered proceeding.”³⁵

New York (reintroduced 2025)

“The right to counsel . . . shall attach:

- (i) In the case of proceedings for removal pursuant to 8 U.S.C. § 1229a, upon receipt of a Notice to Appear, as defined in 8 U.S.C. § 3 1229. The obligations of this section shall be satisfied if counsel is provided to a covered individual no later than their first appearance in a covered proceeding, or as soon thereafter as is practicable.

- (ii) In the case of removal proceedings pursuant to 8 U.S.C. § 1225, upon the commencement of such proceedings, or as soon thereafter as is practicable.
- (iii) In the case of a referral to an immigration judge for a hearing pursuant to 8 U.S.C. § 1231(b)(3) or 8 U.S.C. § 1158, upon receipt of a Notice of Referral to Immigration Judge, or as soon thereafter as is practicable.
- (iv) In the case of a reinstatement of a final order of removal, upon such reinstatement, or as soon thereafter as is practicable.
- (v) In all other cases, as soon as is practicable.”³⁶

As mentioned previously, there are significant constraints in the legal services field nationally that serve as an obstacle to fully implementing universal representation in the near term, particularly on the non-detained docket, which is characterized by long backlogs and unpredictable docketing practices. Oregon’s statute seeks to address this in part by integrating a clearinghouse model to triage people seeking representation services by placing those who are not detained with full or more limited scope representation based on the stage, urgency, and needs of their case. While the long-term vision of universal representation is to build a representational system that has the resources and capacity to provide full representation to all, limited resources and legal services capacity may require alternative approaches to meet the full need over time. In implementing alternative approaches, policymakers and advocates should build the fundamental values of universal representation into the program design, preventing the exclusion of people or limitations on services based upon the perceived strength of a case, criminal legal system contact, or other factors that can limit due process protections for certain people.

Oregon (enacted 2022)

“(F) A clearinghouse [will] provide logistical support, income and program eligibility screening, navigation review, case placement and technical assistance, and referral coordination, mentoring and supervision of attorneys working for community-based organizations.

(b) All individuals seeking services through the universal representation program must be enrolled and are subject to an income and program eligibility screening and a priority recommendation through the clearinghouse. . .

(d) Require all individuals seeking services to be enrolled and subject to a uniform income and program eligibility screening and a priority recommendation through the clearinghouse described in subsection (1) of this section;

(e) Provide services to all income- and program-eligible individuals subject to reasonably measured capacity.”³⁷

Another important consideration is how legislation approaches representation for people who are detained by ICE compared to those who remain at liberty throughout their proceedings. Programs in Colorado and Oregon, and the program proposed in Maryland, aim to prioritize—or even exclusively represent—people who are detained by ICE because of the extreme conditions posed by confinement and the speed of the detained docket. Without swift intervention early in a detained person’s case, they may lose the chance to fairly and fully litigate key elements of their case, like requesting a reasonable bond.

Colorado (enacted 2021)

“The Administrator shall award grants so that seventy percent of the money is allocated to qualifying organizations serving indigent clients who are detained in the custody of the [U.S.] Department of Homeland Security for deportation proceedings and thirty percent of the money is allocated to

qualifying organizations serving indigent clients who are not detained for deportation proceedings; except that this split does not apply if the need for detained indigent client representation can be met with less than seventy percent of the money. Two-thirds of the money for those qualifying organizations serving indigent clients who are not detained must be used for in-person legal services serving indigent clients outside of the Denver-metro area, unless there are no qualifying applicants serving non-detained indigent clients outside the Denver-metro area.”³⁸

Maryland (introduced 2022)

“‘Covered individual’ means an individual detained in the [United States] who is not represented by counsel.”³⁹

Oregon (enacted 2022)

“(c) Require grant recipients to prioritize legal services to detained individuals and individuals at imminent risk of deportation before other immigration matters when applicable. . . .”⁴⁰

Detention populations within a state can shift faster than legislation can keep up, particularly after successful campaigns to end or reduce ICE detention in the state. As such, any language that prioritizes detained representation can include provisions like Colorado’s to ensure that the funding is adaptive. The funding could be redirected to other populations if detention is reduced or eliminated. This avoids potential concerns that a program prioritizing detained representation could justify the continuation of detention in the state. Additionally, federal enforcement and detention patterns may shift and programs should have the flexibility to adapt accordingly. For example, Maryland providers have extended their detention-focused program to include representation for people subject to certain “alternatives to detention” programs that still significantly restrict liberty, such as ankle monitors.⁴¹

b. Duration and Continuity of Representation

The duration of representation—how long the representation extends and in what scenarios—is often detailed in the scope of covered proceedings.

Most programs will end representation when an immigration judge gives a final order that is no longer appealable. **Colorado’s** program is unique in that it explicitly calls for “continued representation after the issuance of a final order by the executive office for immigration review [sic] that is necessary to conclude the indigent client’s representation, secure the indigent client’s immigration benefits, or obtain the indigent client’s release from [ICE detention].”⁴²

States typically support continuity of representation—legal representation that begins as early as possible in immigration proceedings and continues with the same legal service provider when possible—until the conclusion of proceedings. Continuity of representation can help achieve the best possible and most efficient outcomes, avoid retraumatizing clients during representation, and promote sustainable and scalable representation programs. While this is recognized as an ideal practice, many programs are strategizing about how to meet the vast need for representation given their limitations on capacity. These strategies often include ways to fund and integrate legal empowerment services and limited scope representation as a supplement to full representation.

Further affecting the possibility of continuity of representation, ICE has the authority to forcibly transfer detained people to facilities, states, and immigration court venues far from their legal and community support systems. **New York’s** proposed bill provides for continued representation “if an individual is transferred by federal immigration authorities from New York to immigration detention in another state.”⁴³

New York (reintroduced 2025)

“(ii) Covered individuals facing a covered proceeding in a covered venue other than an immigration court in New York or New Jersey shall have the right to a consultation provided by a legal services provider, and if found by the legal services provider to have a viable application for appeal, challenge to a court order, or other form of relief from removal from the United States, shall have the right to ongoing legal representation.”⁴⁴

c. Conflicts and Other Guardrails

Legislation may address additional matters impacting deployment of representation. Regardless of whether this is specifically addressed in a bill, it is important to account for the fact that some eligible people may decline legal services and/or may want to represent themselves. More commonly, a person might be “conflicted out” of being represented by a particular provider due to a conflict of interest between the prospective client and a person the provider already represents.⁴⁵

New York’s bill calls on the program administrator to “establish standards and criteria for the provision of legal services in cases involving a conflict of interest.”⁴⁶ It also provides a lengthy list of scenarios in which the right to counsel either would not attach at the outset of a case or would detach during representation:

New York (reintroduced 2025)

“[T]he right to counsel . . . shall terminate:

- (i) upon the termination or dismissal of removal proceedings or any related appellate matter in respect of a covered individual by the immigration court or other competent tribunal or authority;
- (ii) upon the issuance of a final order or judgment in respect to a covered individual’s removal proceedings from which there remains no opportunity for appeal or other avenue for relief including, but not limited to, motions to reopen, motions to reconsider, and petitions for review; provided, however, that legal services providers shall not be required to pursue appeals or other avenues for relief that are speculative or frivolous;
- (iii) if an individual covered by virtue of being a New York state domiciliary ceases to be a New York state domiciliary and establishes domicile in a jurisdiction outside of New York state;
- (iv) if an individual covered by virtue of being transferred from New York to immigration detention in another state is released from detention and is not a New York state domiciliary;
- (v) if it is discovered that the initial determination that an individual was an income-eligible individual was erroneous at the time that such determination was made, as soon as such discovery occurs; provided, however, that such individual will continue to be provided with legal services pursuant to this subdivision for a reasonable amount of time to enable such person to obtain alternative counsel, so as not to materially prejudice such individual’s chance of success in any covered proceeding;
- (vi) if a covered individual knowingly and voluntarily waives the right to counsel; or
- (vii) upon a determination by a legal services provider after the consultation described in subparagraph (ii) of paragraph (a) of this subdivision that a covered individual facing a covered proceeding in a covered venue other than an immigration court has no viable application for appeal, challenge to a court order, nor other form of relief from removal from the United States.”⁴⁷

In contrast, Colorado’s statute focuses on a simplified set of circumstances in which an attorney would need to withdraw from representation:

Colorado (enacted 2021)

(I) “A qualifying organization shall move to withdraw from representation if:

- (A) The venue in the case is transferred to an immigration court outside of Colorado;
- (B) The indigent client no longer resides in Colorado; or
- (C) Withdrawal is required by the Rules of Professional Conduct.”⁴⁸

As always, attorneys are bound by the Rules of Professional Conduct and any state ethics rules that apply to lawyers. For immigration attorneys and accredited representatives, the [Executive Office for Immigration Review’s Immigration Court Practice Manual](#) provides further guidance. State legislation has in some cases expanded on or reinforced these obligations by adding language about the quality of representation.

One way to promote high-quality representation is to require practitioners to have a certain level of experience. For example, in California a legal services organization under the One CA program must have “at least three years of experience handling asylum, T-Visa, U-Visa, or special immigrant juvenile status cases and have represented at least 25 individuals in these matters.”⁴⁹ However, it would be counter to program growth and capacity-building efforts to set the standards so high that a very limited pool of organizations or individuals would be able to provide services. To that end, California’s REP4All bill sought to broaden the criteria for organizations providing legal services to include qualifications based on the organization’s history of professional experience.⁵⁰

Maryland’s inclusion of the standard of zealous representation is a reminder that attorneys have an affirmative duty to hold the government to its burden in every instance and advocate for their client’s interest to the fullest extent ethically possible in every case.⁵¹ Representation comes without judgment, with empathy, and is part of a holistic legal defense.

Maryland (introduced 2022)

“‘Designated organization’ means a nonprofit organization or association designated by MLSC [the Maryland Legal Services Corporation] that:

- (1) Has the capacity to provide legal representation for covered individuals or identify and contract with persons who can provide legal representation; and
- (2) Ensures independent, competent, and zealous representation of covered individuals.”⁵²

Finally, Oregon’s statute explicitly notes that providers are expected to provide “culturally responsive” services:

Oregon (enacted 2022)

“‘Culturally responsive service’ means a service that is respectful of, and relevant to, the beliefs, practices, cultures and linguistic needs of diverse consumer or client populations and communities whose members identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language or language spoken at home, and that has the capacity to respond to the issues of diverse communities and to require knowledge and capacity at systemic, organizational, professional and individual levels of intervention.”⁵³

Oregon's statute further provides for the creation of "standards and guidelines for the provision of services" that safeguard the quality of service provided under the program.⁵⁴

d. Related Services

Successful removal defense programs require a broad range of services beyond direct representation, including technical assistance, training, and community education.

California's program allows for funding to be used for legal training and technical assistance for nonprofit service providers to increase their expertise and ensure the quality of legal services, as well as education and outreach activities in immigrant communities:

California (enacted 2016)

"(b) For purposes of this section, 'education and outreach' activities means the dissemination of information or activities that promote the benefits of citizenship or immigration remedies, and explain eligibility to prospective United States citizens or prospective individuals eligible for deferred action, or explain to individuals their immigration-related rights.

- (1) Education and outreach activities shall include referrals to educational or legal services that support the applicants' eligibility for citizenship, deferred action, or other immigration remedies, and the importance of participating in civic engagement as a naturalized citizen.
- (2) Education and outreach activities do not include representation as legal counsel that would assist in the application process for a prospective citizen or prospective individual eligible for deferred action or other immigration remedies."⁵⁵

In addition to removal defense and related matters, Maryland's bill would allow for funding to be used to host "Know-Your-Rights trainings and other workshops" as well as other educational activities to inform people of their rights.⁵⁶ Another important aspect of Maryland's current program is the inclusion of case managers and social services access, neither of which is explicitly referenced in the proposed bill language but which have been made available through the budgeting process with the support of the program administrator.

Oregon's statute provides for a wide array of funding for application fees, capacity building at community-based organizations, and training to support "navigators working . . . to guide persons who are at risk of deportation or need assistance with immigration matters into the universal representation program."⁵⁷

Chapter IV: Implementation

Implementation of representation programs at state and local levels involves close coordination between government agencies, legal services providers, community-based organizations, and advocates. It is crucial to establish mechanisms for community engagement and accountability to ensure a program reflects the needs and experiences of those it serves. The implementation process must focus on building legal capacity through strategic oversight, appropriations, and consistent funding mechanisms. This includes establishing a sustainable funding model—for example, multi-year contracts and funding expansion—to support the infrastructure needed for providing zealous, person-centered representation.

Sustainable funding models should contain provisions for incremental scaling to expand capacity over time. Continuous evaluation and adaptation are also crucial to ensuring a program addresses the evolving needs of the communities it serves so that the promise of universal representation is fulfilled. Effective oversight mechanisms and community involvement are essential to maintain accountability and transparency, confirming that the program can meet demands and adjust to changing enforcement priorities. While many areas of implementation can be addressed during a request for proposal process, it is essential to keep these elements in mind during the legislative drafting phase to anticipate and mitigate implementation challenges.

I. Timeline for Implementation and Scaling

To ensure programs are operational as quickly as possible, advocates should consider the time it will take to build an infrastructure that can adjust and scale to meet the full need, while also balancing the community's emergent need for representation. Few bills explicitly refer to an infrastructure or capacity-building period, but advocates and lawmakers should keep this startup period in mind when considering when to begin services and when providers will have enough data to produce meaningful reports in support of funding renewal and sustainability.

Practice Tip

Given the existing resource constraints on the immigration legal services field, legislation can address any capacity constraints that might impede implementation upon bill passage and include them in a scaling plan drafted in tandem with the legislation.

The Illinois legislature, for example, established a task force to investigate “how to fully provide legal representation for covered individuals facing covered proceedings.”⁵⁸ That task force was given approximately two years to provide its initial recommendations and [a proposal](#) for the time needed to complete a more comprehensive analysis and report.

New York's proposed Access to Representation Act provides a timeline for implementation beginning at the start of the year following its passage and achieving full implementation over the course of six years.⁵⁹

II. Program Administration

A neutral third-party administrator can support day-to-day program operations in various ways. For example, they could be responsible for administering the billing and payment system, monitoring contract compliance, and communicating with stakeholders.

In many states, government agencies or nonprofit organizations serve as program administrators, and each option has its own advantages and challenges. Even when legislation names a particular government agency to receive funding and/or act as a fiscal agent on behalf of the state, some agencies have chosen to subcontract the more intensive program administration role to a separate, specialized organization.

In California, the statute authorizes the California Department of Social Services (CDSS) as the government agency to house the One CA program.⁶⁰ However, CDSS contracts with the Immigrant Legal Resource Center to perform the day-to-day program administration for the adult removal defense program.⁶¹

Maryland's initial bill named the state public defender as the program administrator, but was later amended to have MLSC—a bipartisan, legislatively created corporation with decades of experience—occupy that role.⁶² At the time, this adjustment was found to be advantageous both politically and operationally.

New York's bill takes a different approach, in which the New York State Office for New Americans would be the program administrator. New York's proposal would also establish "an advisory committee which shall work, in collaboration with the administrator, to develop programs, policies, training, and procedures."⁶³

Under the universal representation statute in Oregon, the non-profit Oregon Worker Relief organization (and its subsidiary Equity Corps of Oregon) and the Oregon State Bar serve as fiscal agents and governing bodies that oversee different components of the program's services, while Innovation Law Lab operates the clearinghouse to provide income and program eligibility screening, case placement, and referral coordination.⁶⁴

Overall, a program administrator's role is to ensure that the legal services program is well-coordinated, runs smoothly, and that service providers have the time and resources they need to conduct their work efficiently and effectively. Vera has developed tools for those who wish to learn more about a [program administrator's role](#), characteristics, and responsibilities.

III. Oversight and Accountability

State legislation should provide for meaningful oversight and accountability to the people a program is designed to serve. There can be different forms of oversight and accountability, but an initial consideration is determining who—or what body—will advise, propose changes to the program, and see that such changes are enacted.

Multiple states have recognized the need for consistent reporting to inform program renewals and funding increases. For example, Maryland's bill states, "on or before August 31, 2024, and each August 31 thereafter, MLSC [the program administrator] shall submit a written report to the Governor . . . the House Judiciary Committee and the Senate Judicial Proceedings Committee."⁶⁵

New York's bill includes a proposed advisory committee that would be convened by the Office of New Americans and would be charged with targeted tasks, including:

New York (reintroduced 2025)

"to develop programs, policies, training, and procedures necessary to effectuate the requirements of [the statute]. Matters to be considered by the advisory committee include, but are not limited to:

- (i) the rates of compensation for legal services;
- (ii) community engagement efforts;
- (iii) the sufficiency of access to legal services in covered venues;

- (iv) the sufficiency of space available for designated providers in covered venues;
- (v) ensuring individuals with limited English proficiency have access to appropriate translation services; and
- (vi) other efforts by other states to support individuals facing deportation.”⁶⁶

Additionally, the administrator in New York would be required to report certain information including the number of clients served, the number and types of legal applications submitted, any barriers or challenges to the provision of services, and more.⁶⁷

Oregon approached oversight by creating an advisory committee of key stakeholders to “make recommendations relating to the coordination of services, standards and guidelines, the development of best practices and other matters related to universal representation.”⁶⁸ The advisory committee works collaboratively to submit those recommendations to the program administrators.

While these examples reference various types of committee systems overseeing the programs, advocates and legislators may wish to consider structures that allow directly impacted community members to join an advisory committee or otherwise maintain a degree of oversight and ensure accountability to the people that the program serves.

IV. Ongoing Appropriations

No state programs are currently fully funded to the extent that they could represent every person in immigration court. To avoid gaps in funding and representation, and to scale up a sustainable program, advocates should consider the process for securing ongoing funding even at the outset of a program.

In comparing the Colorado and Oregon funds, both seek to ensure “continuous” appropriations, although Colorado explicitly makes this “subject to available appropriation.”⁶⁹ Meanwhile, lawmakers in Oregon decided to house the fund in a state agency budget and directed any interest earned to be credited toward the fund. Both state programs operate within the state treasury, and Oregon works with a fiscal agent and a state agency, the Oregon Judicial Department, to disburse funding to providers.

Colorado (enacted 2021)

“There is established in the State Treasury the Immigration Legal Defense Fund. The money in the fund is continuously appropriated to the administrator . . . [who] is authorized to make grants from the fund to qualifying organizations to represent indigent individuals appearing before an immigration court in Colorado who lack private counsel.

On or before January 31, 2022, and on January 2 each year thereafter, the administrator shall award grants from the fund, subject to available appropriations, to qualifying organizations. . . .”⁷⁰

Oregon (enacted 2022)

“(1) The Universal Representation Fund is established in the State Treasury, separate and distinct from the General Fund. (2) Interest earned by the Universal Representation Fund shall be credited to the fund. (3) Moneys in the fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of disbursement to the fiscal agent . . . for providing a statewide integrated, universal navigation and representation system for immigration matters. . . .”⁷¹

Chapter V: Conclusion

In this turbulent, anti-immigrant political climate, it is incumbent on states and localities to continue to protect their community members and advance the national movement for universal representation. Programs such as the ones described here have been embraced over the last 12 years for helping to keep families together, stabilize communities, combat social and legal racial disparities, and support the economy amid labor shortages and deep-seated racism vocalized by national political leaders. In this political period, states are an active battleground for the rights of immigrants. To win these battles and protect those rights, advocates and legislators must grow their knowledge and practice of deportation defense. From determining the initial components of state policy to creating the program design and setting the stage for implementation and sustainability of services, states are laying the critical groundwork for a future with a federally funded system of representation and, ultimately, a right to government-funded counsel for people faced with the threat of deportation.

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Endnotes

- ¹ Vera's Safety & Fairness for Everyone Network, established in 2017, consists of legal services providers, community-based organizations, advocates, and government partners working to implement universal representation—a public defender system for people facing the threat of deportation by the federal government—through local- and state-funded programs.
- ² New Jersey Anticipated Resources for the Fiscal Year 2023–2024, A5669 (2023), 148, https://pub.njleg.gov/Bills/2022/AL23/74_.PDF. See also New Jersey Office of New Americans, “Legal Services | New Jersey's Detention and Deportation Defense Initiative,” <https://www.nj.gov/humanservices/njnewamericans/programs/legal/>.
- ³ Washington Operating Budget, 2023–2025 Supplemental, ESSB 5950 SL § 127(10) (2024), 63, <https://fiscal.wa.gov/statebudgets/2024proposals/Documents/co/5950-S.SL.pdf>. See also Washington State Department of Commerce, “Special Initiatives,” <https://www.commerce.wa.gov/community-initiatives/>.
- ⁴ Memorandum from Financial Services Director Terri Gearon, State of Hawaii Judiciary, to all interested providers, re: “Request for Information for General Civil Legal Services for Indigent Residents of the State of Hawaii,” August 10, 2022, <https://www.courts.state.hi.us/wp-content/uploads/2022/08/RFI-J23165-Notice-ADA.pdf>; and Maryland Legal Services Corporation, “Capital Area Immigrants' Rights (CAIR) Coalition,” <https://www.mlsc.org/grantee/capital-area-immigrants-rights-cair-coalition/>. Documents establishing the current funding for Hawaii and Maryland are unavailable as of the date of this publication.
- ⁵ Cal. Welf. & Inst. Code §§ 13300-13310, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=5.6.&article=.
- ⁶ Colo. Rev. Stat. § 8-3.8-101(3), <https://leg.colorado.gov/sites/default/files/images/olls/crs2023-title-08.pdf>.
- ⁷ Oregon SB1543 (2022), <https://olis.oregonlegislature.gov/liz/2022r1/Downloads/MeasureDocument/SB1543/>. Enrolled, codified at Or. Rev. Stat. § 9.860, <https://casetext.com/statute/oregon-revised-statutes/title-1-courts-of-record-court-officers-juries/chapter-9-oregon-state-bar-attorneys-law-libraries/universal-representation>.
- ⁸ Oregon SB1543 (2022). Enrolled, codified at Or. Rev. Stat. § 9.865.
- ⁹ Or. Rev. Stat. § 9.860, “Universal representation program; grants; transfer of funds to Legal Services Program for immigration legal services; advisory committee; report to legislature” (emphasis added).
- ¹⁰ California Immigrant Policy Center, “Immigrant Inclusion & Civic Participation,” <https://caimmigrant.org/what-we-do/policy/immigrant-inclusion-civic-engagement/>.
- ¹¹ The House version of this bill is Mass. HD4072 (2024), <https://malegislature.gov/Bills/194/HD4072>.
- ¹² Illinois Right to Counsel in Immigration Proceedings Act, 20 Ill. Comp. Stat. § 4112, <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4295&ChapterID=5>.
- ¹³ The Resurrection Project, “Advocate for Immigrant Rights,” <https://resurrectionproject.org/advocate-for-immigrant-rights/>.
- ¹⁴ Illinois Right to Counsel in Immigration Proceedings Act, 20 Ill. Comp. Stat. § 4112, <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4295&ChapterID=5>.
- ¹⁵ Right to Counsel in Immigration Proceedings Task Force, *Final Report* (Chicago: Illinois Department of Human Services, 2024), https://www.ilga.gov/reports/ReportsSubmitted/4977RSGAEmail10605RSGAAttachRight%20to%20Counsel%20in%20Immigration%20Proceedings%20Task%20Force_signed.pdf.
- ¹⁶ Glenn Blain, “Gov. Cuomo creates Liberty Defense Project That Will Provide Pro-bono Legal Services to Immigrants,” *New York Daily News*, April 8, 2018, <https://www.nydailynews.com/2017/03/24/gov-cuomo-creates-liberty-defense-project-that-will-provide-pro-bono-legal-services-to-immigrants/>.
- ¹⁷ New York A270 (2025), <https://www.nysenate.gov/legislation/bills/2025/A270>.
- ¹⁸ For the cost savings, see Colorado Fiscal Institute, *A Matter of Justice: Cost Savings from Universal Legal Representation for All Colorado Immigration Proceedings* (Denver: Colorado Fiscal Institute, 2021), 13, <https://www.coloradofiscal.org/wp-content/uploads/2021/02/2.12.21-Final-Report-2.pdf>.
- ¹⁹ Colorado Immigration Legal Defense Fund, HB21-1194 (2021) (codified at Colo. Rev. Stat. § 8-3.8-101), https://leg.colorado.gov/sites/default/files/2021a_1194_signed.pdf.
- ²⁰ Illinois Right to Counsel in Immigration Proceedings Act, 20 Ill. Comp. Stat. § 4112, <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4295&ChapterID=5>.
- ²¹ Maryland HB114 (2022), <https://mgaleg.maryland.gov/2022RS/bills/hb/hb0114f.pdf>.
- ²² Cal. Welf. & Inst. Code § 13303(3)(A)(i), https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=5.6.&article=.
- ²³ Cal. Welf. & Inst. Code § 13300(b)(1), https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2031. Note that the Representation, Equity, and Protections for All Immigrants Campaign bill was later introduced to amend the

- statute to include a person's intent to reside in and overall "nexus" to the state. California AB617 (last re-introduced 2024), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB617.
- ²⁴ New York A270 (2025).
- ²⁵ See for example Timantha Goff, Zack Mohamed, Ronald Claude, et al., *Uncovering the Truth: Violence and Abuse against Black Migrants in Immigration Detention* (Covina, CA: Freedom For Immigrants, 2022), <https://www.freedomforimmigrants.org/report-uncovering-the-truth>.
- ²⁶ California Immigrant Policy Center, "Immigrant Inclusion & Civic Participation," <https://caimmigrant.org/what-we-do/policy/immigrant-inclusion-civic-engagement/>.
- ²⁷ Lara Korte, "Elon Musk Targeted a Controversial California Immigration Bill. Now It's Shelved," Politico, March 13, 2024, <https://www.politico.com/news/2024/03/13/elon-musk-california-immigration-bill-00146706>.
- ²⁸ Colorado Immigration Legal Defense Fund, Colo. Rev. Stat. § 8-3.8-101, <https://leg.colorado.gov/bills/hb21-1194>.
- ²⁹ Maryland HB114 (2022).
- ³⁰ Or. Rev. Stat. §§ 9.860(1) & 9.860(4)(a). Oregon's ECO program defines "immigration matter" as "any proceeding, filing or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of State or the United States Department of Labor." Equity Corps of Oregon, "About Us," <https://equitycorps.org/about-equity-corps/>.
- ³¹ 20 Ill. Comp. Stat. § 4112/10, <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4295&ChapterID=5>.
- ³² New York A270 (2025).
- ³³ Maryland HB114 (2022), <https://mgaleg.maryland.gov/2022RS/bills/hb/hb0114f.pdf>.
- ³⁴ Or. Rev. Stat. § 9.860(4)(a); and Equity Corps of Oregon, "About Us," <https://equitycorps.org/about-equity-corps/>.
- ³⁵ Maryland HB114 (2022).
- ³⁶ New York A270 (2025).
- ³⁷ Or. Rev. Stat. § 9.860(1).
- ³⁸ Colo. Rev. Stat. § 8-3.8-101(6).
- ³⁹ Maryland HB114 (2022) at page 3.
- ⁴⁰ Or. Rev. Stat. § 9.860(2)(c).
- ⁴¹ U.S. Immigration and Customs Enforcement, "Alternatives to Detention," (last updated Feb. 25, 2025), <https://www.ice.gov/features/atd>.
- ⁴² Colo. Rev. Stat. § 8-3.8-101(3)(b). This provision may apply to various situations in which representation might continue after a person is ordered removed including, but not limited to, filing a habeas corpus petition for prolonged detention or applying for a visa or other immigration benefit that would allow a person to return to the United States after removal.
- ⁴³ New York A270 (2025).
- ⁴⁴ New York A270 (2025).
- ⁴⁵ Conflicts of interest can include, but are not limited to, representing two clients with opposing immigration cases, representing a family member, or taking on a case for someone who is involved in a separate legal dispute with a former client. See American Bar Association Model Rule of Professional Conduct 1.7, https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_7_conflict_of_interest_current_clients/comment_on_rule_1_7/.
- ⁴⁶ New York A270 (2025).
- ⁴⁷ New York A270 (2025).
- ⁴⁸ Colo. Rev. Stat. § 8-3.8-101(4)(b).
- ⁴⁹ California AB-2031 (2024), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2031.
- ⁵⁰ California AB-2031 (2024), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB2031.
- ⁵¹ See for Maryland's standard of representation 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), <https://www.vera.org/advancing-universal-representation-toolkit/implementing-the-vision>.
- ⁵² Maryland HB114 (2022) at page 3.
- ⁵³ Or. Rev. Stat. § 9.860(8)(c).
- ⁵⁴ Or. Rev. Stat. § 9.860(4)(b). See also Oregon State Bar Legal Services Program, *Immigration Practice and Performance Standards and Guidelines* (Tigard, OR: Oregon State Bar, 2023), https://www.osbar.org/_docs/lsp/ImmigrationPracticeandPerformanceStandardsandGuidelines.pdf.
- ⁵⁵ Cal. Welf. & Inst. Code § 13305(b), https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=5.6.&article=.
- ⁵⁶ Maryland HB114 (2022).
- ⁵⁷ Or. Rev. Stat. § 9.860(1).
- ⁵⁸ 20 Ill. Comp. Stat. § 4112/15(g), <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4295&ChapterID=5>.
- ⁵⁹ New York A270 (2025).
- ⁶⁰ Cal. Welf. & Inst. Code §13302 et seq., https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=5.6.&article=.

- ⁶¹ California Department of Social Services, “Immigration Services Funding (ISF) Program,” <https://www.cdss.ca.gov/inforesources/immigration/immigration-services-funding>; and California Department of Social Services, *Removal Defense Program Primary Grantee Contact List Fiscal Year 2022–2024* (Sacramento, CA: California Department of Social Services, 2023), <https://www.cdss.ca.gov/Portals/9/Immigration/RD-Contractor-Contact-List-FY2224.pdf?ver=2023-08-24-150751-937>.
- ⁶² Maryland HB114 (2022).
- ⁶³ New York A270 (2025).
- ⁶⁴ Or. Rev. Stat. § 9.860-865; Equity Corps of Oregon, “About Us,” <https://equitycorps.org/about-equity-corps>.
- ⁶⁵ Maryland HB114 (2022).
- ⁶⁶ New York A270 (2025).
- ⁶⁷ New York A270 (2025).
- ⁶⁸ Or. Rev. Stat. § 9.860(5).
- ⁶⁹ Or. Rev. Stat. § 9.865(3); and Colo. Rev. Stat. § 8-3.8-101(2).
- ⁷⁰ Colo. Rev. Stat. § 8-3.8-101(2).
- ⁷¹ Or. Rev. Stat. § 9.865(3).