



Diverting Children from Foster to Kinship Care: The Issue and the Evidence

Chapin Hall Policy Brief

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THE ISSUE

Childhood experiences have a longstanding impact on outcomes during adulthood.¹ Parents, extended family, and communities are all responsible for promoting children's well-being and protecting them from trauma. When children cannot remain safely with their parents, kinship care is often the best option. Broadly defined, children in kinship care live with relatives or close family friends, often defined as fictive kin.² Within the foster care system, placing children in kinship care rather than with nonrelative foster parents has clear benefits. For children in foster care, compared to placing them with strangers, kinship care has been shown to be safer, to be more likely to result in a permanent home for children, and to result in improved child well-being. Children in foster care with relatives are also more likely to maintain their cultural identities and stay connected to their siblings and communities.³ Child welfare experts view kinship foster care as a best practice and seek opportunities to promote a "kin first" culture when a decision is made to separate children from their parents due to safety concerns. However, when this preference for kinship care extends outside of the foster care context (for example, kinship diversion), the practice may not align with child welfare agencies' goals of supporting child and family well-being if those kin placements are not appropriately resourced and supported.

Child welfare policymakers and practitioners are examining the practice of kinship diversion and its impact.⁴ Kinship diversion occurs when a child welfare agency facilitates a change in physical custody without pursuing a change in legal custody. The practice is typically used after maltreatment has been indicated and is primarily for neglect without physical or sexual abuse.⁵ Kinship diversion keeps children out of the foster care system; however, it can limit the child, parent, and kin caregiver's access to resources and supports available through foster care to maintain the child's safety, permanency, and well-being.

HOW DO KINSHIP FAMILIES FORM?

Key terms used by the Child Welfare system

Formal kinship families form when the state assumes placement and care responsibility for a child and facilitates their living arrangement with a family member or close family friend.² The kinship caregiver provides licensed or unlicensed foster care with oversight from the state. As of 2021, 134,000 children lived in kinship foster care in the United States, accounting for more than one-third of children placed out-of-home in state custody.⁶

Diverted or voluntary* kinship families form when the parents agree to a plan, established in partnership with the child welfare agency, where their child goes to live with kin for a period of time, often to prevent the agency from pursuing an involuntary placement in court.² The child welfare agency facilitates this change of physical custody without taking the child into state custody and maintains limited involvement with the family after this occurs. It is difficult to determine how many children live in this type of kinship care because the practice varies within and across jurisdictions. In addition, states' administrative data systems do not consistently track the practice.⁵

Informal or private kinship families form without child welfare involvement when parents and kin caregivers agree the child should live with kin.² The total population of informal kinship families is not clear because many of these families have no contact with the child welfare system. However, Generations United estimates that for every child in formal kinship foster care, 18 children are living in informal kinship arrangements outside the child welfare system.⁷ That number likely includes children in both informal and diverted kinship care.

*Calling these families "voluntary" is controversial among legal advocates. They argue that parents do not have an authentic choice in the living arrangement since they are presented with two options. One, agree to the child living with kin or, two, the agency will place the child in foster care.⁸

Kinship care has a special relevance in the context of the Family First Prevention Services Act of 2018 (Family First). A primary objective of Family First is to prevent the need for foster care and keep more children safe with their families, including with kinship caregivers when children cannot safely remain with their parents. In addition to making resources available for kinship navigation, Family First explicitly names kinship caregivers as potential recipients of prevention services. This benefits children, parents, and kinship caregivers by making an array of evidence-based mental health, substance use prevention, and parenting skills interventions available to meet their needs outside of the foster care system.

Child welfare leaders have been critically examining kinship diversion for more than a decade. In 2013, The Annie E. Casey Foundation released a report on the different viewpoints in the field after interviewing more than 50 child welfare decision makers. Some child welfare decision makers view kinship diversion as aligning with family-centered practice. Proponents of kinship diversion argue families may prefer to stay outside the formal system because foster care comes with the risk of disruption or termination of parental rights. Kinship diversion is regarded as advantageous in situations where the caregiver may not be able to meet foster care licensing standards.⁴ Similarly, a qualitative study conducted by Child Trends in 2016 found both families and child welfare staff view the rules and regulations of foster care as intrusive and not family friendly. Diversion keeps children out of foster care while allowing families to avoid court involvement and remain the primary decision makers about what is best for the child.⁹

Critics of diversion argue Family First could create incentives to expand the practice of kinship diversion. They cite concerns about parents' rights, lack of regulation or court oversight, and inadequate support for the care of the child. Legal scholar Josh Gupta-Kagan coined the term "hidden foster care" to summarize this concern. He argues the practice is coercive, may violate parents' right to due process, and could separate children from their parents indefinitely.⁸ Those opposed to the practice also argue that diverting children to kin outside of foster care limits access to services and financial resources kinship caregivers might otherwise receive if they were providing licensed kinship foster care. In addition, it fails to monitor safety, permanency, and well-being outcomes.⁴

Best practice dictates that child welfare agencies should never facilitate a living arrangement, whether through formal placement or via an agreement with the family, without providing ongoing resources and support to that family and seeking to understand child and family outcomes. When children cannot safely remain with their parents, the next best option is often to identify a kinship caregiver as a temporary living arrangement. If a child welfare agency determines, in partnership with the family, that a kinship living arrangement outside of foster care may be appropriate and advantageous to the family, this option should be presented as an authentic choice among the full range of decisions that family could make. The option should be presented alongside the financial implications of each in a way that respects the agency of the family. Furthermore, families should have access to legal counsel, regardless of their ability to pay, whenever a child welfare agency is proposing a family separation arrangement—both inside and outside of the formal foster care system. When a child welfare agency plays a role in separating a child from their parents, they should also collaboratively develop and support a plan for reunification, by identifying the conditions necessary for the child to return to live with their parents and proving support to achieve reunification. Child welfare agency leaders and collaborators are well-positioned to leverage strategic Family First prevention planning efforts and invest in expanding legal representation to any family with child welfare system involvement. This would ensure families have access to the supports they need to make informed decisions and to the resources and services they need to thrive.

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THE EVIDENCE

- **The federal government does not require child welfare agencies to report how many children are diverted to kin**, so it is difficult to determine how many families are impacted by this practice or what their outcomes are.
- **When compared with kinship foster caregivers or unrelated foster caregivers, voluntary kinship caregivers caring for children who had been diverted from the child welfare system were more likely to be living in poverty and report financial struggles.** Diverted kinship families were also less likely to receive Temporary Assistance for Needy Families (TANF) or support from the child welfare system to obtain immunizations, dental care, and Medicaid.¹⁰
- **White children are more likely to be diverted to kin and less likely to enter the child welfare system after diversion than children of color.** An analysis of kinship diversion practice in three states found White children were more likely to be diverted than children of color (between 46% and 55% of White children were diverted, compared to between 36% and 44% of Black children). Within one of those states, children of color entered foster care after diversion 2.1 more times than their White peers. This disparity was more pronounced with Black children, who entered foster care 3.2 times more frequently than their White peers.⁵
- **Kinship diversion was the most common out-of-home placement**, accounting for nearly half of out-of-home placements in a national sample of nearly 6,000 maltreatment reports between 2009 and 2011. For children aged 3–5 and for children in very poor homes (under 50% of the Federal Poverty Level), **rural areas had significantly higher rates of kinship diversion than urban areas.**¹¹
- **In contrast to foster care placements, child welfare agencies are not required to provide parents with a concrete plan and the services they need to reunify with their child or monitor the child’s safety while in a kinship diversion agreement.**⁴ The most common case plan goal among children in foster care is to reunify with parent(s) or primary caretaker(s).⁶
- **Families do not receive consistent and comprehensive information about all possible service and custody options.** If an agency is considering removing children from their home, frontline staff and parents are the primary decision makers about whether children are diverted or placed in formal foster care. **Foster care licensure¹² would make the family eligible for financial and other supports which are not available when kinship diversion is used.**⁹
 - Systemic barriers to foster care licensing, such as citizenship requirements or specifications about the number of bedrooms, can prevent kinship caregivers of color and kinship caregivers with low incomes from accessing the support they need to care for the children placed in their home.¹³
 - A frontline caseworker who believes kinship care is the best placement option may choose to place a child in a relative’s home through diversion rather than foster care if they believe the kinship caregiver may not meet standards to be approved or licensed as a foster care placement.⁴
 - A qualitative study in one state found if caseworkers believe that children fare worse in foster care, the caseworkers may be less likely to offer kin the option of becoming a licensed foster parent. Despite caseworkers’ negative view of foster care, most caseworkers had a positive reaction to idea of licensing kin as foster parents and believe the agency needs to provide financial and other supports, even when children are diverted to kin.⁹
- **One study on child behavior problems found kinship diversion does not have an adverse effect on child well-being when compared with kinship foster care. However, children in both of those groups have more negative outcomes than children in kinship families that were not formed by the child welfare system.** Outcomes of children involved with the child welfare system through either formal kinship foster care or voluntary kinship diversion did not differ significantly. However, informal (or private) kinship care was associated with greater declines in behavior problems over time when compared with both formal kinship foster care and voluntary kinship diversion.¹⁴

POLICY & PRACTICE RECOMMENDATIONS

Deciding how to explore, make meaning of, and implement changes to child welfare agencies' kinship diversion practices should be done intentionally. Individuals and families who have been impacted by the practices should be engaged as lived experts in the decision-making process. These [Strategies for Authentic Integration of Family and Youth Voice in Child Welfare](#)¹⁵ could serve as a helpful guide alongside the recommendations below.

- **Use the categories “formal,” “diverted,” and “informal” when referring to kinship families rather than simply “formal” and “informal.”** When families formed through kinship diversion are not differentiated from informal or private kinship families, the distinct needs of both groups are not fully considered. Informal or private kinship families, many of whom are unknown to the child welfare agency, are often caring for children with no alleged maltreatment. In contrast, diverted kinship families are known to the child welfare agency and are often caring for children when maltreatment has been indicated.
- **Explore the prevalence of kinship diversion practices in your state to inform policy changes that could better support children and families.** Consider using the [Kinship Diversion Estimation Tool](#),¹⁶ a survey designed to help child welfare agencies understand their kinship diversion practices.
- **Develop mechanisms to monitor the use of kinship diversion and child outcomes associated with the practice.** Many jurisdictions do not currently collect information on kinship diversion systematically, or the information is not easily aggregated because it is inconsistently documented and often only in case narratives. Child welfare agencies are making large-scale changes to their data systems due to implementation of the Family First Prevention Services Act, which presents a critical opportunity to connect this priority with existing efforts to build data infrastructure and capacity.
- **Explore how foster care licensing standards may present barriers to licensure for kinship caregivers.** The Children’s Bureau has proposed a rule change which would allow the use of separate licensing standards for kinship foster care. Child welfare agencies should begin identifying the ways their current foster care licensing standards may make it difficult to license kin. Licensing kin allows child welfare agencies to seek federal Title IV-E funding reimbursement for foster care maintenance payments for eligible children in eligible placements. The ability to receive maintenance payments is critical for kin caregivers who are disproportionately below the poverty line when compared with the general population.^{7, 10, 17}
- **When kinship diversion is determined to be the appropriate decision for the safety and well-being of the child and their family, parents and kinship caregivers should be engaged in assessment and planning processes to determine what services and supports they need to care for themselves and the children.** Services might include economic and concrete supports to meet their financial needs, referrals to appropriate evidence-based prevention programs, and kinship navigation services for ongoing support.
- **Consider aligning Family First Prevention Services with the unique needs of children in kinship care, their parents, and their kinship caregivers.** States have the flexibility to define their own criteria to identify which children and families are eligible to receive evidence-based prevention services. Kinship families have unique needs and this population should be intentionally considered a target population for prevention services.
- **Assess the fit and feasibility of implementing the Annie E. Casey Foundation’s Supported Diversion Model.**⁴ Critical components for jurisdictions to consider include:
 - appropriate risk assessment to ensure the kinship living situation is safe
 - facilitated team decision making with full disclosure of placement options
 - appropriate needs assessment for the child, kin caregiver, and parent and providing services to meet those needs
 - a “way home” for birth parents so that they get the support needed to reunify
 - caregiver legal status and permanency considerations so that the kinship caregiver has legal authority to make decisions for the child while in their care
 - appropriate tracking of diverted children and families

CONTACT INFORMATION

[Chapin Hall](#) is an independent policy research center at the University of Chicago that provides public and private decision makers with rigorous research and achievable solutions to support them in improving the lives of children, families, and communities. For more information about Chapin Hall, visit www.chapinhall.org or @Chapin_Hall. Chapin Hall experts are available to speak to this topic. They include:

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ENDNOTES

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