



NOW IS THE TIME: DEVELOPING A COMPREHENSIVE KINSHIP SYSTEM OF CARE
PART THREE:

AN EXAMINATION OF KINSHIP DIVERSION AS AN ALTERNATIVE TO FOSTER CARE

Diversion

MARLA SPINDEL AND STEPHANIE MCCLELLAN

www.dckincare.org



WHAT KINSHIP DIVERSION IS

- Allegation of Abuse or Neglect of a Child
- Child Welfare Agency Intervention
- Substantiated Abuse or Neglect
- Informal Placement with Relatives or “Fictive Kin” who are **not** Licensed Foster Parents
- May Occur Without or After Removal Proceeding in Court Depending on Jurisdiction
- Agency Involvement Ends

WHAT KINSHIP DIVERSION ISN'T

- Foster Care
- Guardianship
- In-Home Case
- Required Services
- Permanency Plan
- Financial Supports

RATES OF RELATIVE FOSTER CARE

- Percentage of Children in Relative Foster Care Varies Widely by Jurisdiction:
- United States average is 30%
- Low end is 3% in Kentucky and 6% in South Carolina and Virginia
- High end is 47% in Arizona and Montana, and 45% in Florida and Hawaii
- Not all low-end states are “red” states e.g. 11% in Delaware
- Not all high-end states are “blue” states e.g. 38% in Louisiana

HOW WE GOT HERE

Fostering Connections to Success and Increasing Adoptions Act of 2008:

- requires notification of adult relatives within thirty days of removal of child that:
 - specifies that the child has been or is being removed from parental custody
 - explains the options of the relative to participate in the care and placement
 - describes the requirements to become a licensed foster home and the services and supports available
- Gave states option to provide payments to relative foster parents committed to caring permanently for a child living with them for at least six months—called kinship guardian assistance payments or KinGAP
- Explicitly permits waivers of non-safety related licensing standards for relative foster family homes on a case by case basis

FACTORS AFFECTING THE DECISION TO DIVERT

- Costs are always a concern due to local and federal budget constraints.
- Children cared for outside of the foster care system reduces agency costs exponentially, as well as reduces workloads, data collection, and reporting requirements.
- Policy considerations also weigh heavily on diversion decisions, as many agency decision-makers believe children do better with family than in foster care.
- Agencies often have goals for reducing numbers of children in foster care that are unrelated to factors that affect maltreatment, such as rates of poverty, crime, and substance use disorders.
- Research shows that diversion is utilized when family is available, and decisions are not based on severity of maltreatment.

BARRIERS TO RELATIVE FOSTER CARE

Relative Caregivers may not be able to become Licensed Foster Parents.

- Some relative caregivers may not meet licensing requirements such as criminal background checks or number of bedrooms.
- Some jurisdictions don't facilitate pathway to foster care for kin i.e. don't participate in KingAP and/or have waivers for non-safety related requirements.

Relative Caregivers may not want to become Licensed Foster Parents.

- Difficulty understanding of licensing process.
- Loss of control in family decision-making.
- Time—completing foster care education, continuing home visits and court dates.
- Don't want to be in contentious relationship with parents.

BARRIERS TO RELATIVE FOSTER CARE

Relative Caregivers may not understand they can become Licensed Foster Parents.

- Agency may not fully explain rights to become foster parents and/or available waivers.
- Agency may encourage informal placement over foster care.

SAFETY CONCERNS WITH KINSHIP DIVERSION

Lack of child protection -- no requirements for criminal or child abuse registry checks, no home study, no assigned social worker, and no permanency plan

Lack of required or available supportive services –mental health and trauma care for the child; substance abuse and parenting skills for the parents; or respite care for the relative caregivers

Lack of oversight -- no best practices for placement, no follow up care, and no tracking and reporting requirements

SAFETY CONCERNS WITH KINSHIP DIVERSION

Lack of financial supports – no foster care payment, and other benefits such as TANF are not enough to meet even basic needs

BUT . . . Some of this may change in jurisdictions that choose to opt in to utilizing Title IV funding for direct services through the recently passed Family First Act.

FAMILY FIRST PREVENTION SERVICES ACT (2018)

Provides Title IV-E funds for evidence-based prevention services for families in which children at risk of foster care are diverted to live with kin:

- Mental health and substance abuse prevention and treatment
- In-home parent skill-based services
- Funding for Kinship Navigator programs

Important dates:

- Funding begins in FY2020, but states may choose to delay until FY2022.
- By October 1, 2018, the Secretary of Health and Human Services will release practice criteria for, and a “pre-approved list” of, programs and services.

FAMILY FIRST PREVENTION SERVICES ACT (2018)

But Hedge Against Diversion: (Sec. 50711):

- A child who is with a kin caregiver for more than six months and meets the Title IV-E eligibility requirements will continue to be eligible for Title IV-E foster care payments at the end of the 12 months.
- This means that if a parent fails to get to the point within 12 months where the child welfare agency returns the child, the child is still eligible for foster care. Kin caregivers can still become foster parents and receive benefits even after caring for a diverted child for up to 12 months.
- Family First does essentially guarantee that if the child welfare agency places the child in foster care after up to 12 months of diversion, the state or district can still draw in federal money to help with foster care payments, as long as the parents' income would originally have qualified the child for federal reimbursement.

RECOMMENDATIONS

Stop institutional pressure to artificially lower numbers of children in foster care as a measure of success.

Incentivize under-utilizing states to increase relative foster care placements to at or above the national average of 30% .

License more relative caregivers as foster parents, including through waivers of non-safety related requirements.

Provide independent advocates at meetings with the child welfare agency to explain the legal and financial options to parents and kin caregivers so they can make informed decisions about foster care licensing.

Fund and make referrals to independent kinship navigator programs.

Incentivize states to utilize VPAs.

Provide financial subsidies for informal relative caregivers commensurate with foster care rates.

RECOMMENDATIONS

If kinship diversion is used, implement standards and best practices including:

- Relate decision to divert to the severity of maltreatment, not just availability of family;
- Ensure in-home case for duration of the placement that includes parents and relative caregivers;
- Require data collection; and
- Assess and report outcomes.

(See CWLA article: New Directions for Kinship Care Policy and Practice: A Position Paper from the Kinship Summit at Albany, New York, September 2016 (CWLA 2017))