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Kinship Diversion in the District of Columbia: A Review of Local Practice to Inform National Policy

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Kinship Diversion in the District of Columbia: A Review of Local Practice to Inform National Policy

Cover Page Footnote

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**Kinship Diversion in the District of Columbia:
A Review of Local Practice to Inform National Policy**

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Abstract

Like other child protection agencies throughout the United States, the District of Columbia Child and Family Services Agency is engaging in a practice commonly known in the child welfare community as “kinship diversion.” This practice is typically defined as an alternative to foster care that is utilized by child welfare agencies to informally place children with relatives when they cannot remain safely at home with their parents. There are many reasons to look to kin to care for abused and neglected children, most importantly to keep them from being placed with people they do not know at an already traumatic time in their lives. What is often not understood is that relatives and fictive kin can be approved as foster parents and can receive essential financial assistance and supportive services to help safely raise these children, who often have significant needs. By contrast, kinship diversion does not protect abused and neglected children from harm nor does it help stabilize the family unit financially or emotionally. It is thus not surprising that many diverted children are at risk of being re-traumatized and returned to the abusive or neglectful parent. We contend that the safety of abused and neglected children who are diverted in D.C. and nationwide is imperiled because child protection agencies do not oversee or manage what happens to them. Recommendations for identifying and implementing best practices in this area to protect diverted children are explored.

Keywords: children, kin, kinship, caregiver, abuse

Like many state and local child protection agencies throughout the United States, the District of Columbia Child and Family Services Agency (“CFSA”) is engaging in a practice known in the child welfare community as “kinship diversion.” This practice is often defined as an alternative to foster care, “when a child welfare agency facilitates the placement of a child with relatives or fictive kin when that child cannot remain safely at home with his or her parents” (Malm & Allen, 2016, p. 1; *see also* Berrick & Hernandez, 2016; Wallace & Lee, 2013). There are many reasons to look to relatives to care for children who cannot remain safely at home, most importantly to keep children from being placed with people they do not know at an already

traumatic time in their lives. Indeed, research predominantly shows that abused and neglected children raised by relatives have better outcomes than those raised by non-relatives (Cheung, Goodman, Leckie, & Jenkins, 2011; Falconnier et al., 2010; Fechter-Leggett & O'Brien, 2010; Generations United, n.d.; Koh, 2010; Rubin et al., 2008; Winokur, Crawford, Longobardi, & Valentine, 2008; Winokur, Holtan, & Batchelder, 2014).¹

Federal law has historically mandated that when children cannot remain safely at home, states document efforts to find placements with fit and willing relatives, give preference when making placement decisions to adult relatives over non-relatives, notify relatives when a child is removed from home, and have family meetings to help children stay safely with family members.² Federal law also encourages states to waive non-safety-related foster parent licensing standards for relatives.³ In D.C., relatives can be approved for temporary foster parent licensing on a fast track so that abused and neglected children can be placed quickly.⁴

However, rather than license relatives as foster parents, child protection agencies, including CFSA, are increasingly relying on kinship diversion. Defenders of this practice contend that it allows the family to remain in control of decisions regarding their own child and keeps the child out of the foster care “system” (Annie E. Casey Foundation, 2013). However, unlike foster care, kinship diversion does not provide abused and neglected children and their families with necessary protections, financial assistance, and supportive services (Wallace & Lee, 2013). This is particularly problematic because kinship caregivers are more likely to live in poverty and have poor health and education, and the children in their care typically have significant emotional and physical needs (Annie E. Casey Foundation, 2012; Bavier, 2011; Golden & Hawkins, 2012; Wallace & Lee, 2013).

In the context of kinship diversion, children may not receive mental health and other services for trauma recovery; birth parents are not required to get supports and services to resume safely caring for their children; kin caregivers do not receive sufficient (if any) financial, respite, and other benefits to care for these children; and there is no mechanism for safely reunifying the family or, if that is not possible, achieving permanency for the children (Mauldon, Speigman, Sogar, & Stagner, 2012). It is, thus, not surprising that many diverted children are at risk of being returned or exposed to the abusive or neglectful parent without safeguards to prevent future harm (Annie E. Casey Foundation, 2013). Further, many child protection agencies, including CFSA, do not keep track of children in kinship diversion arrangements or their outcomes. As a result, it is unknown what happens to these abused and neglected children.

The recently passed Family First Prevention Services Act of 2017 (“Family First Act”)⁵ could address some of the failings inherent in kinship diversion. Specifically, under that law, states may elect to use Title IV-E funds to provide identified, evidence-based, well-supported, and trauma-informed services and programs for not more than 12 months to prevent children

¹ Note, several more recent research studies have raised concerns about the well-being of children in certain types of relative care arrangements (Anderson, & Falleson, 2015; Font, 2015; Garcia et al., 2015; Rufa & Fowler, 2016; Stein et al., 2014; Wu, White, & Coleman, 2015; Xu & Bright, 2018).

² Adoption and Safe Families Act of 1997, Pub. L. 105-89, 111 Stat. 2115 (1997) and Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, 122 Stat. 3949 (2008).

³ Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, 122 Stat. 3949 (2008) and Family First Prevention Services Act of 2017, enacted as Division E, Title VII of the Bipartisan Budget Act of 2018) Pub. L. 115-123, 132 Stat. 64 (2018).

⁴ D.C. Mun. Reg. tit. 29, §6027.

⁵ Family First Prevention Services Act of 2017, (enacted as Division E, Title VII of the Bipartisan Budget Act of 2018) Pub. L. 115-123, 132 Stat. 64 (2018).

from entering foster care. Such programs and services are limited to mental health, substance abuse prevention, and in-home parent skill-based programs. States must have a prevention plan in place for each child at imminent risk of removal to foster care. Each prevention plan must identify the strategy for the child to remain safely at home or in a kinship placement and the services to be provided to the parent, child, and kin caregiver, as applicable. If the prevention plan does not successfully create a safe environment for the child after 12 months, the option to remove the child to foster care is preserved. States will be required to monitor and oversee the safety of children who receive these services or programs and track their outcomes long-term. However, the Family First Act does not provide any financial subsidy for kin caregivers in this scenario, and it remains to be seen how states that elect to participate will oversee and monitor the provision of services to children and families and whether there will be successful outcomes.

CFSA's Kinship Diversion Practices

While this article primarily focuses on CFSA's use of kinship diversion and its impact on abused and neglected children in D.C., the discussion below provides a useful illustration of issues that arise with these arrangements in general and as employed by other jurisdictions with similar practices. D.C. is not alone in the practice of kinship diversion: while good data is scarce, this practice or similar variants are common in many jurisdictions across the country (Annie E. Casey Foundation, 2013; Malm & Allen, 2016; Wallace & Lee, 2013).

How CFSA Utilizes Kinship Diversion

The following description of how CFSA utilizes kinship diversion is based primarily on information reported to D.C. child welfare advocates by relative caregivers and former CFSA social workers.

- CFSA receives a call on its child abuse and neglect hotline and investigates the report of child abuse or neglect;
- CFSA makes a finding of abuse or neglect and the facts of the case suggest that the child is at high risk and cannot be protected in the home;
- A relative (usually a grandparent) or close family friend (fictive kin) agrees to care for the child with the birth parent's apparent consent. This agreement typically occurs at a family team meeting (or similar meeting) where CFSA is present and still involved with the family;
- CFSA drafts a safety plan delineating the terms of the arrangement; and
- CFSA closes its internal case without any court involvement, and the kin caregiver takes care of the child informally.

As noted above, kinship diversion arrangements usually are established at a family team or similar meeting. This meeting occurs at a time of significant stress, which can make it difficult for family members to fully understand what is happening and make prudent decisions. Based on kin caregiver reports about the meeting, CFSA typically encourages the birth parent and potential kin caregiver to agree to kinship diversion to prevent placement of the child in foster care.

While CFSA contends that it informs potential kin caregivers of the option to pursue foster care licensure, many of those caregivers later report they did not know about or fully understand this option and the benefits of doing so. This lack of understanding is exacerbated because CFSA does not provide kin caregivers with an easily understandable written document that discusses all available placement options and the advantages and disadvantages of each,

including the financial supports available. Further, neither the parent nor the kin caregiver has an advisor present who can explain these very complex issues. According to child welfare advocates, some kin caregivers have indicated they would have sought licensure as foster parents if they had been aware of and/or fully understood that option at the meeting. Unfortunately, this lack of access to essential information for kin caregivers, and in some cases active dissuasion from becoming a licensed foster parent, is not unique to D.C. (Annie E. Casey Foundation, 2013; Malm & Allen, 2016; Wallace & Lee, 2013).

Even if kin caregivers are informed about the opportunity to become foster parents, they often have concerns about how burdensome the process may be. D.C., like many other jurisdictions, has stricter foster parent licensing standards than those required by federal law. As a result, many kin will not be able to qualify as foster parents. D.C. provides for waivers of certain non-safety-related foster care licensing requirements at CFSA's sole discretion,⁶ but not all states currently permit such waivers. In addition, foster parents must complete training before becoming fully licensed. D.C.'s foster parent licensing requirements are among the most rigorous in the country (Beltran & Epstein, 2012).⁷

CFSA does explain to kin that they can file for custody of the child in court⁸ and refers them to a legal services organization for assistance. However, if the parent does not consent, the kin caregiver must overcome rigorous legal requirements to be granted custody by a court.⁹ Specifically, under D.C. law, the kin caregiver must show by *clear and convincing evidence* that the parent is unwilling or unable to care for the child or it would be detrimental to the child's physical or emotional well-being for the parent to do so, *and* that it is in the best interests of the child to grant the kin caregiver custody.¹⁰ This standard is reflected in most states' third-party custody statutes, and the United States Supreme Court has reaffirmed a parent's fundamental Constitutional right to raise his or her children and "to make decisions concerning their care, custody and control."¹¹ Significantly, if the parties and the child are unrepresented, the D.C. custody court may not be presented with all information that could be relevant to its decision-making. This makes it even more difficult for unrepresented kin caregivers to overcome the high bar to be granted custody.

How CFSA Strategy Results in a Perverse Incentive to Use Kinship Diversion

In 2012, CFSA adopted a strategic agenda called the Four Pillars. The "Front Door" pillar states that:

Children deserve to grow up with their families and should be removed from their birth homes only as the last resort. Child welfare gets involved only when families cannot or will not take care of children themselves (CFSA, 2018a).

⁶ *Id.* tit. 29, § 6000.5. While D.C. law provides for waivers of non-safety-related licensing requirements, we were unable to identify information about CFSA's current use of such waivers.

⁷ D.C. requires 30 hours of pre-service training to become a licensed foster parent and another 30 hours of in-service training post-licensure. *Id.* tit. 29, §§ 6026.2 and 6026.5.

⁸ Relatives and other third parties may file for custody of a child in D.C. pursuant to the Safe and Stable Homes for Children and Youth Amendment Act of 2007 if they meet certain jurisdictional and standing requirements. See D.C. Code § 16-831.01 *et seq.*

⁹ *Id.* § 16-831.01 *et seq.*

¹⁰ *Id.* § 16-831.06.

¹¹ *Troxell v Granville*, 590 U.S. 57 (2000).

In practice, CFSA has been striving to “narrow” the Front Door (CFSA, 2018a). The result has been a dramatic decrease in the number of D.C. children removed from their homes. At the end of fiscal year 2006, there were 2,313 children in foster care; by the end of fiscal year 2017, that number had fallen by 61% to 898 children, with a 9% decrease between fiscal years 2016 and 2017 alone (CFSA, 2018a).

As part of its strategy, CFSA sets internal benchmarks for continuing reductions in the size of the D.C. foster care population (CFSA, 2018a). These benchmarks appear financially motivated and arbitrary, as they do not seem to be related to real-life risk factors such as the number of children born in D.C. in a given year or the amount of crime, drug use, homelessness, poverty, domestic violence, mental illness, or other indicators that influence the rate of child abuse and neglect (Annie E. Casey Foundation, 2013; Child Trends, 2016).

CFSA’s arbitrary benchmarks for reducing the D.C. foster care population provide CFSA with a perverse incentive to use kinship diversion, rather than attempting to license kin caregivers as foster parents. Indeed, kinship foster care is underutilized in D.C. As of June 30, 2017, only 22% of D.C. children in out-of-home care (which includes foster care as well as group homes, institutional, pre-adoptive homes, and therapeutic placements) were in kinship foster care (Center for the Study of Social Policy, 2017); nationally, 32% of children in out-of-home placements were in kinship foster care arrangements as of September 30, 2016 (Children’s Bureau, 2017).

We note that it is unclear whether kinship diversion is even legally permissible under D.C. law. Specifically, if a report of abuse or neglect is substantiated and the child is at risk, CFSA is authorized to do the following: first, it must undertake all “reasonable efforts . . . to prevent or eliminate the need for removing the child;” and second, if the child cannot be “adequately protected” in the home, then CFSA is required to remove the child to foster care.¹² Accordingly, once CFSA determines that a child cannot be protected in the home through the provision of services, the relevant statute does not give CFSA leeway to arrange for the child to be taken out of the unsafe home and transferred to the care of a third party (in this case, a relative or fictive kin) without the protections and supports associated with foster care. For its part, CFSA denies engaging in kinship diversion and has no policies addressing it. Significantly, if CFSA seeks to participate in the Family First Act preventive services and programs for diverted children, presumably a change in D.C. law and policies would be required. This may be the case in other states as well.

CFSA’s Kinship Diversion Practices Create Serious Dangers for D.C. Children

Research shows that the decision to utilize kinship diversion in lieu of foster care is not dependent on maltreatment type or severity, but rather on whether there is a willing relative available to take the child (Annie E. Casey Foundation, 2013; Malm & Allen, 2016). Accordingly, a child in a kinship diversion arrangement could have experienced the same type and/or severity of abuse or neglect as another child who is placed in foster care. In this context, the abused and neglected child diverted to kinship care is at risk of re-traumatization because, as discussed below, kinship diversion does not provide the considerable protections and supports associated with foster care.

¹² D.C. Code §§ 4-1301.09a and 4-1303.04(c).

Diverted D.C. Children Are Deprived of the Safeguards and Supports of Foster Care

When a child protection agency places a child in foster care, it must take certain steps to ensure the safety of the child in the foster home. Set forth below are those generally utilized by CFSA:

- Conducting criminal background and child protection register checks on the foster parent and others adults living in the home; performing a health and safety assessment of the foster parent's home; and evaluating whether the foster parent can provide a safe and secure environment for the child;
- Requiring the foster parent to meet conditions related to the child's sleeping arrangement, health care, education, and appropriate discipline of the child;¹³
- Preparing a case plan for the child and the family and periodically reviewing that case plan;
- Assigning a social worker to meet with the child and family on a regular basis to oversee the case plan and ensure all parties are complying;
- Providing and arranging for services and supports for the child, birth parent, and foster parent; and
- Providing a safe pathway for the child to be reunified with the birth parent or, if that is not possible, to be placed in a permanent home.¹⁴

In other words, for a child in foster care, the agency must review the placement at the outset and on an ongoing basis to ensure that the child is safe, the birth parent's rights are protected, and appropriate services are provided to stabilize the child and family. This supervision furthers the principal goal of foster care—for the child to be reunified with the birth parent once the safety issues that led to abuse or neglect have been addressed.¹⁵

None of the above steps are required in a kinship diversion arrangement. When CFSA diverts a child, CFSA does not routinely do a home study to ensure that the kin caregiver's residence and neighborhood are safe, collect basic information about the kin caregiver and others living in the home, and/or ensure the kin caregiver has the means and ability to care for the child.¹⁶ CFSA's failure to assess these socioeconomic and psychosocial factors is particularly concerning because, as noted above, kinship caregivers are more likely to live in poverty and have poor health and education, and the children in their care typically have significant emotional and physical needs (Annie E. Casey Foundation, 2012; Bavier, 2011; Golden & Hawkins, 2012; Wallace & Lee, 2013). Research shows that these factors result in worse outcomes for children over time (Rufa & Fowler, 2016).

¹³ Children in foster care have identified rights to, among other things, appropriate housing, food, clothing, education, health care, privacy, extracurricular activities, transportation, as well as the right to be free from abuse or neglect. D.C. Mun. Reg. tit. 29 § 6004.1.

¹⁴ See, e.g., D.C. Code §§ 4-1302.03, 4-1303.04, 4-1305.02, 4-1401 *et seq.*, 7-2105, 16-2313, 16-2320; D.C. Mun. Reg. tit. 29 § 6000 *et seq.*

¹⁵ See, e.g., D.C. Code § 4-1301.09a(b).

¹⁶ CFSA has represented to child welfare advocates that it relies on its social workers' judgment and does not systematically vet every such arrangement. A lack of consistent or uniform policies in this area has been documented by researchers in other jurisdictions as well (Malm & Allen, 2016).

Furthermore, CFSA does not provide even minimal post-diversion services or supports to the child, birth parent, or kin caregiver.¹⁷ CFSA takes the position that it has no further responsibility for the child or the family because the parent has purportedly consented to the arrangement and the child is no longer in an unsafe home with an abusive or neglectful parent. However, without CFSA oversight and accountability, the needs of the child, birth parent, and kin caregiver can go unmet, and there is no process for safely reunifying the family.

CFSA also does not oversee what happens to diverted children (CFSA, 2018c). The absence of ongoing monitoring of these children is particularly important as there are indications that kinship diversion practices do not necessarily lead to the hoped-for outcomes (Font, 2015; Stein et al., 2014). With the recent adoption of the Family First Act, there exists the possibility that D.C. and other jurisdictions could begin monitoring and evaluating the efficacy of a form of supported kinship diversion. It remains to be seen, however, whether they will opt to participate in the Family First Act prevention services and programs and, if so, what the data and performance measures will reveal.

Finally, unless granted legal custody by a court, the safety plan does not accord the kin caregiver any legally enforceable rights to care for the child, and so the birth parent can retrieve the child at any time. The kin caregiver also has not been specifically granted the right to obtain medical care or information for the child or the right to apply for certain public benefits on behalf of the child. Kin caregivers also report having trouble enrolling children in school (Miller & Donohue-Dioh, 2017). While CFSA often encourages kin to file for custody of the child in court, the kin caregiver may not want to sue the birth parent for custody or may not have legal standing to do so.¹⁸ Further, there is no guarantee that a court will grant the kin caregiver custody, especially if the parent no longer consents to the arrangement.

D.C. Kin Caregivers Receive Limited Financial and Other Benefits to Raise Diverted Children

D.C. foster children are entitled to various benefits, such as clothing vouchers; aftercare programs; college preparation programs, college tours, and financial aid; grants for college or vocational training programs; housing programs; and intensive programs for transition to adulthood.¹⁹ These benefits are not available to diverted children. Further, foster parents receive a maintenance payment to assist with the costs of raising the child, such as clothing, food, and school supplies. Foster care subsidy rates in D.C. for 2018 range from \$1,140 to \$1,995 per 30-day period per child, depending on the special needs of the child and whether the child is a teen parent. Foster care subsidy rates are adjusted each year for cost-of-living increases. There is no financial means test for foster parents to receive the maintenance payments, and other benefits received by the household are not deducted from the rate.

Defenders of kinship diversion in D.C. contend that grandparents and other relatives who care for children informally can receive a subsidy under the D.C. Grandparent Caregivers Program (“GCP”). The GCP was enacted in 2005 and D.C. remains one of only a few jurisdictions to provide an ongoing monthly subsidy to relative caregivers (whether part of a kinship diversion arrangement or otherwise). Based on the legislative history, the purpose of the

¹⁷ At the family team meeting when the diversion takes place, CFSA typically helps the family develop a safety plan that includes voluntary services and may provide the family with a referral to a governmental or community-based service provider.

¹⁸ D.C. Code § 16-831.02.

¹⁹ D.C. Mun. Reg. tit. 29 § 6004.1.

GCP was to address “the disparity of financial assistance provided to foster parents who care for the District's adjudicated children” as compared to grandparent caregivers “in spite of the important role they have risen to accept” (Council of the District of Columbia Committee on Human Services, 2005). While clearly an innovative law, we believe the GCP, as currently implemented, fails to achieve this purpose. The original law provided that the amount of the GCP subsidy would be “no less than the regular daily rate of the subsidy for a long-term permanent guardianship.”²⁰ However, over the years the law was amended and now provides that the GCP subsidy be not less than 66% of the permanent guardianship regular daily rate.²¹ After offsets of TANF and SSI benefits,²² the average benefit was only \$594.90 per 30-day period per child for fiscal year 2017 (CFSA, 2018b), at best half the D.C. guardianship rate²³ (CFSA, 2018a). The rate has essentially remained stagnant since 2012 (CFSA, 2018b), so it does not account for cost-of-living increases.

Finally, there are significant eligibility restrictions for acceptance into the GCP. Specifically, eligibility is limited to grandparents, great grandparents, great aunts and great uncles. Other categories of relatives and fictive kin are not eligible to apply.²⁴ Caregivers must live in D.C., show proof they have been the primary caretakers of the child for the previous six months without a parent present in the home,²⁵ undergo criminal and child protection register checks (with no waivers available), and have total household income below 200% of the Federal Poverty Level.²⁶ Caregivers also must be recertified each year and must apply for TANF for the child,²⁷ which many are reluctant to do because it requires them to authorize D.C. to sue the parents for child support (Office of the Attorney General for the District of Columbia, n.d.).

We believe that D.C. should be commended for establishing a program to support kin who care for children informally and other states should follow its example. However, to meet the needs of kin caregivers, the amount of the subsidy should be increased to be commensurate with the D.C. guardianship/foster care subsidy rate. The requirement to offset other benefits from the rate should be eliminated and eligibility should be expanded to the full universe of relative caregivers. Research shows children living with grandparents have a higher risk of poverty than other children and the most pressing need of kinship caregivers is financial (Geen, 2004; Miller & Donohue-Dioh, 2017; Pac, Waldfogel, & Wimer, 2017; Sampson & Hertlein, 2015). By contrast, “foster care payments likely play an important role in reducing the risk of poverty” for foster children (Pac et al., 2017).

Diverted D.C. Children Subject to Instability and Exposure to Future Harm

When CFSA engages in kinship diversion, there is a risk that the kin caregiver will return the child to the abusive or neglectful parent within the first months of the arrangement because the kin caregiver is unable or unwilling to continue to care for the child, the parent requests the child's return, and/or the child wants to go home (Annie E. Casey Foundation, 2013; Rufa & Fowler, 2016). Even if the child continues to live with the kin caregiver, there may be no stability for the child because, unless the kin is granted custody by a court, the birth parent has

²⁰ D.C. Code § 4-251.04(b) (2005).

²¹ *Id.* § 4-251.04(b).

²² *Id.* § 4-251.04(c).

²³ Currently, the guardianship and foster care rates in D.C. are the same.

²⁴ D.C. Code § 4-251.01(2).

²⁵ There are exceptions if the parent is a minor or disabled. *See Id.* §§ 4-251.03(a)(3)(A)-(C).

²⁶ *Id.* § 4-251.03(a)(5).

²⁷ *Id.* §§ 4-251.03(a)(7) and (b)(1).

the right to come get the child at any time. In other words, there is no long-term plan for the child or assurances of a permanent stable home (Annie E. Casey Foundation, 2013).

Instability of living arrangement and recurring exposure to abuse or neglect can have long-term adverse consequences for a child. Scientific research shows that such repetitive highly stressful experiences can alter the normal development of a child's brain and change the chemistry that encodes the genes in brain cells (Children's Bureau, 2012; Children's Bureau, 2015). This, in turn, results in an increased risk for later mental illnesses, including generalized anxiety disorder and major depressive disorder; increased risk for physical ailments, such as asthma, hypertension, heart disease and diabetes; and increased risk of antisocial behavior, such as substance abuse and violent crime (Felitti et al., 1998; National Scientific Council on the Developing Child, 2010).

Recommendations to Ensure Better Outcomes for Children

We discuss below recommendations CFSA and other state and local child protection agencies should consider implementing to improve the safety and well-being of diverted children.

Licensing Kin as Foster Parents

When a child protection agency is considering kinship diversion for a child, it should ensure that all potential kin caregivers understand their rights to become foster parents and the benefits of doing so. This step should be accomplished by providing kin caregivers with accurate and complete information about the legal and financial implications of becoming a foster parent, as well as making an advocate available to assist with decision-making.

Further, states should revise their foster care licensing requirements to allow for waivers of non-safety-related standards for kin caregivers and remove unnecessary requirements so more kin can qualify without the need for a waiver (Kinship Care Summit, 2017). Consideration also should be given to whether those seeking to become kin foster parents should be required to satisfy the same training requirements as non-kin foster parents.

Increased licensing of kin caregivers as foster parents will ensure that they can provide a safe and nurturing home environment and have the financial and other supports needed to care for the child (Rufa & Fowler, 2016). A child placed in a licensed home is at lower risk of re-traumatization because he or she will only be returned to the birth parent once the factors associated with the abuse and neglect have been ameliorated. If reunification is not possible, the child will have the security of knowing that he or she will not be returned to an unsafe home and can have permanency with kin.

In-Home Case to Include the Whole Family

Following and expanding upon the Family First Act, we recommend that when a child protection agency engages in kinship diversion, it should open an in-home case to include the whole family. Under this scenario, the agency would assign a social worker to oversee and coordinate services to the birth parent to address the factors that led to abuse or neglect, to the child to address trauma, and to the kin caregiver to support the safety and stability of the placement. In addition, all relative and fictive kin caregivers should be eligible to receive a subsidy, like the D.C. Grandparent Caregiver Program subsidy, but in an amount commensurate with the jurisdiction's foster care subsidy rate. The child would be able to return home once the birth parent, kin caregiver, and child have met all safety and well-being requirements. If those

requirements cannot be met, then foster care with the kin caregiver should be initiated whenever possible. A few jurisdictions are already experimenting with forms of this approach, known as “supported diversion” (Annie E. Casey Foundation, 2013).

Appropriate Tracking of Diverted Children and Families

The lack of data about the scope and effectiveness of kinship diversion is a problem throughout the country that should be addressed (Berrick & Hernandez, 2016). The Family First Act has introduced the concept of states monitoring and collecting data on children in kinship diversion arrangements. We contend that all state child protection agencies should track abused and neglected children in these arrangements and assess their outcomes, regardless of whether the state opts to participate in the Family First Act prevention services program.

The types of information that should be tracked include: (a) the age, gender, race and ethnicity of each diverted child, the nature of the child’s relationship to the kin caregiver, the family’s history of involvement with the child protection agency, and what, if any, services, were provided to the family before and after the child was diverted; (b) what percentage of kin caregivers initiate custody proceedings in court for children diverted to their care; (c) how many diverted children live with kin pursuant to a court custody order within three months, six months, and one year after diversion; (d) how many of these children were returned to the parent within three months, six months, and one year after diversion; (e) whether those returns were consistent with the requirements of the safety plan, e.g., was the child safely returned; (f) how many diverted children were the subject of a child protection hotline call within three months, six months, and one year after diversion, and where was the child living at the time of the report; (g) of these hotline calls, how many did the child protection agency accept for further action, such as an investigation; (h) for those reports investigated, how many resulted in a substantiated finding of abuse or neglect and where was the child living at the time; and (i) whether particular services or supports correlate with the success of each diversion arrangement. We recognize that there may be additional or different ways to measure outcomes for diverted children that also should be considered.

Conclusion

Within the national child welfare community, there is a growing consensus that “kinship diversion without appropriate attention to safety and support hurts children and families...” (Annie E. Casey Foundation, 2013; Wallace & Lee, 2013). We contend that the safety of abused and neglected children who are diverted in D.C. and nationwide is imperiled because child protection agencies do not oversee or manage what happens to them. We believe child protection agencies must ensure kin caregivers understand their rights to become foster parents and streamline the requirements for them to qualify. Alternatively, when a child is diverted to live with kin, child protection agencies should open an in-home case to include the whole family, provide a financial subsidy to kin caregivers, and assign a social worker to coordinate care and ensure the child is stable and only returned to the birth parent when all safety concerns have been addressed. Finally, we propose that states track the demographics, needs, and outcomes of children, kin, and families in kinship diversion arrangements to determine best practices for ensuring the safety and well-being of diverted children.

References

- Anderson, S., & Falleson, P. (2015). Family Matters? The Effect of Kinship Care on Foster Care Disruption Rates. *Child Abuse & Neglect*, 48, 68-79.
<https://doi.org/10.1016/j.chiabu.2015.06.005>
- Annie E. Casey Foundation. (2012). *Stepping Up for Kids: What Governments and Communities Should do to Support Kinship Families?* Retrieved from
<http://www.aecf.org/m/resourcedoc/AECF-SteppingUpForKids-2012.pdf>
- Annie E. Casey Foundation. (2013). *The Kinship Diversion Debate: Policy and Practice Implications for Children, Families and Child Welfare Agencies*. Retrieved from
<http://www.aecf.org/resources/the-kinship-diversion-debate/>
- Bavier, R. (2011). Children Residing With No Parent Present. *Children & Youth Services Review*, 33(10), 1891–1901. <https://doi.org/10.1016/j.childyouth.2011.05.017>
- Beltran, A., & Epstein, H. (2012). *Improving Foster Care Licensing Standards around the United States: Using Research Findings to Effect Change*. Retrieved from https://www.americanbar.org/content/dam/aba/administrative/child_law/FC_Licensing_Standards.authcheckdam.pdf
- Berrick, J., & Hernandez, J. (2016). Developing consistent and transparent kinship care policy and practice: State mandated, mediated, and independent care. *Children and Youth Services Review*, 68, 24-33. <http://dx.doi.org/10.1016/j.childyouth.2016.06.025>
- Center for the Study of Social Policy. (2017, November 21). *LaShawn A. v. Bowser Progress Report for the Period January – June 2017*. Retrieved from <https://www.cssp.org/publications/child-welfare/district-of-columbia-lashawn-a-v-fenty/document/LaShawn-A-v-Bowser-Progress-Report-for-the-Period-January-June-2017.pdf>
- Cheung, C., Goodman, D., Leckie, G., & Jenkins, J. (2011). Understanding Contextual Effects on Externalizing Behaviors in Children in Out-of-Home Care: Influence of Workers and Foster Families. *Children and Youth Services Review*, 33, 2050-2060
<https://doi.org/10.1016/j.childyouth.2011.05.036>
- Child Trends. (2016, September). *Child Maltreatment: Indicators of Child and Youth Well-Being*. Retrieved from <https://www.childtrends.org/indicators/child-maltreatment/>
- Children’s Bureau. Child Welfare Information Gateway (2012). *ACYF-CB-IM-12-04: Promoting Social and Emotional Well-Being for Children and Youth Receiving Child Welfare Services*. Retrieved from <https://www.childwelfare.gov/topics/systemwide/well-being/>
- Children’s Bureau. Child Welfare Information Gateway. (2015). *Understanding the Effects of Maltreatment on Brain Development*. Retrieved from
<https://www.childwelfare.gov/pubs/issue-briefs/brain-development/>
- Children's Bureau. (2017) The AFCARS Report No. 24 (Preliminary FY 2016 Estimates). Retrieved from <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport24.pdf>
- Council of the District of Columbia Committee on Human Services (2005, October 17). *Report on Bill 16-180, the Grandparent Caregivers Pilot Program Establishment Act of 2005*. Retrieved from <http://lims.dccouncil.us/Download/1111/B16-0180-COMMITTEEREPORT.pdf>
- D.C. Child and Family Services Agency. (2018a, January). *Annual Public Report FY 2017: Implementation of the District of Columbia Adoption and Safe Families Amendment Act of 2000*. Retrieved from

- https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/APR%202017%20FINAL_0.pdf
- D.C. Child and Family Services Agency. (2018b, January 30). *Grandparent Caregivers Program Annual Status Report, CY 2017*. Retrieved from <https://cfsa.dc.gov/publication/grandparent-caregivers-program-annual-report-2017>
- D.C. Child and Family Services Agency. (2018c, February 12). *Child and Family Services Agency's Responses Performance Oversight Hearing FY 2017 and FY 2018 (First Quarter) Pre-Hearing Questions*. Retrieved from <https://app.box.com/s/vhhw2pgco1cxo57c9bklnkrd03ewlb5k/file/276541818943>
- Falconnier, L., Tomasello, N., Doueck, H., Wells, S., Luckey, H., & Agathen J. (2010). Indicators of Quality in Kinship Foster Care. *Families in Society: The Journal of Contemporary Social Services* 91(4), 415-420. <https://doi.org/10.1606/1044-3894.4040>
- Fechter-Leggett, M., & O'Brien, K. (2010). The Effects of Kinship Care on Adult Mental Health Outcomes of Alumni of Foster Care. *Children and Youth Services Review*, 32, 206-213. <https://doi.org/10.1016/j.childyouth.2009.08.017>
- Felitti, V., Anda, R., Nordenberg, D., Williamson, D., Spitz, A., Edwards, V.,...Marks, J. (1998). Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults. *American Journal of Preventive Medicine*, 14(4), 245-258. Retrieved from [http://www.ajpmonline.org/article/S0749-3797\(98\)00017-8/pdf](http://www.ajpmonline.org/article/S0749-3797(98)00017-8/pdf)
- Font, S. (2015). Are children safer with kin? A comparison of maltreatment risk in out-of-home care. *Children and Youth Services Review*, 54, 20-29. <https://doi.org/10.1016/j.childyouth.2015.04.012>
- Garcia, A., O'Reilly, A., Matone, M., Kim, M., Long, J., & Rubin, D. (2015). The Influence of Caregiver Depression on Children in Non-relative Foster Care Versus Kinship Care Placements. *Maternal and Child Health Journal*, 19(3), 459-467. <https://doi.org/10.1007/s10995-014-1525-9>
- Geen, R. (2004). The Evolution of Kinship Care Policy and Practice. *The Future of Children*, 14(1), 130-149. <https://doi.org/10.2307/1602758>
- Generations United. (n.d.). *Children Thrive in Grandfamilies*. Retrieved from <http://grandfamilies.org/Portals/0/16-Children-Thrive-in-Grandfamilies.pdf>
- Golden, O., & Hawkins, A. *TANF Child-Only Cases*. (2011, November). Retrieved from <https://www.urban.org/sites/default/files/publication/25426/412573-TANF-Child-Only-Cases.PDF>
- Kinship Care Summit. (2017). New Directions for Kinship Care Policy and Practice: A Position Paper from the Kinship Summit at Albany, New York, September 2016, *Child Welfare*, 95(4), 137-160. Retrieved from <http://www.nysnavigator.org/wp-content/uploads/2016/04/Child-Welfare-Special-Issue-2.pdf>
- Koh, E. (2010). Permanency outcomes of children in kinship and non-kinship foster care: Testing the external validity of kinship effects. *Children and Youth Services Review*, 32, 389-398. <https://doi.org/10.1016/j.childyouth.2009.10.010>
- Malm, K., & Allen, T. (2016, July 1). *A Qualitative Research Study of Kinship Diversion Practices*. Retrieved from <https://www.childtrends.org/publications/a-qualitative-research-study-of-kinship-diversion-practices-2-2/>
- Mauldon, J., Speiglmann, R., Sogar, C., & Stagner, M. (2012). *TANF Child-Only Cases: Who Are They? What Policies Affect Them? What Is Being Done?* Retrieved from

- <http://www.chapinhall.org/sites/default/files/TANF%20Child-Only%20Cases%20--%20The%20Report%201-25-2013.pdf>
- Miller, J., & Donohue-Dioh, J. (2017). Mapping the Needs of Kinship Providers: A Mixed-Method Examination. *GrandFamilies: The Contemporary Journal of Research, Practice and Policy*, 4(2), 1-23. Retrieved from <http://scholarworks.wmich.edu/grandfamilies/vol4/iss2/4>
- National Scientific Council on the Developing Child. (2010). *Early Experiences Can Alter Gene Expression and Affect Long-Term Development: Working Paper No. 10*. Center on the Developing Child, Harvard University. Retrieved from <http://developingchild.harvard.edu/resources/early-experiences-can-alter-gene-expression-and-affect-long-term-development/>
- Office of the Attorney General of D.C. Child Support Services Division. (2012, June 21). *Temporary Assistance for Needy Families (TANF), Medicaid and Child Support*. Retrieved from <https://cssd.dc.gov/publication/tanf-brochure>
- Pac, J., Waldfogel, J., & Wimer, J. (2017). Poverty among Foster Children: Estimates Using the Supplemental Poverty Measure. *Social Service Review*, 91(1), 8-40. <https://doi.org/10.1086/691148>
- Rubin, D., Downes, K., O'Reilly, A., Mekonnen, R., Luan, X., & Localio, R. (2008). Impact of Kinship Care on Behavioral Well-Being for Children in Out-of-Home Care. *Pediatric and Adolescent Medicine*, 162(6), 550-556. Retrieved from <https://jamanetwork.com/journals/jamapediatrics/fullarticle/379638>
- Rufa, A., & Fowler, P. (2016). Kinship Foster Care Among African American Youth: Interaction Effects at Multiple Contextual Levels. *Journal of Social Science Research*, 42(1), 26-40. <http://dx.doi.org/10.1080/01488376.2015.1077187>
- Sampson, D., & Hertlein, K. (2015). The experience of grandparents raising grandchildren. *GrandFamilies: The Contemporary Journal of Research, Practice, and Policy*, 2(1). Retrieved from <http://scholarworks.wmich.edu/grandfamilies/vol2/iss1/4>
- Stein, R., Hurlburt, M., Heneghan, A., Zhang, J., Rolls-Reutz, J., Landsverk, J., & Horwitz, S. (2014). Health Status and Type of Out-of-Home Placement: Informal Kinship Care in an Investigated Sample. *Academy Pediatrics*, 14, 559-564. <https://doi.org/10.1016/j.acap.2014.04.002>
- Wallace, G., & Lee, E. (2013). Diversion and Kinship Care: A Collaborative Approach Between Child Welfare Services and NYS's Kinship Navigator. *Journal of Family Social Work* 16(5), 418-430. <http://dx.doi.org/10.1080/10522158.2013.834281>
- Winokur, M., Crawford, G., Longobardi, R., & Valentine, D. (2008). Matched Comparison of Children in Kinship Care and Foster Care on Child Welfare Outcomes. *Families in Society: The Journal of Contemporary Social Services*, 89(3), 338-346. <http://dx.doi.org/10.1606/1044-3894.3759>
- Winokur, M., Holtan, A., & Batchelder, K. (2014). Kinship care for the safety, permanency, and well-being of children removed from the home for maltreatment. *Cochrane Database of Systematic Reviews 1*. <http://dx.doi.org/10.1002/14651858.CD006546.pub3>
- Wu, Q., White, K., & Coleman, K. (2015). Effects of kinship care on behavioral problems by child age: A propensity score analysis. *Children and Youth Services Review*, 57, 1-8 <https://doi.org/10.1016/j.childyouth.2015.07.020>

Xu, Y., & Bright C. (2018). Children's Mental Health and its Predictors in Kinship and Non-kinship Foster Care: A Systemic Review. *Children and Youth Services Review*, 89, 243-262. <https://doi.org/10.1016/j.chidyouth.2018.05.001>