

# ENHANCING DUE PROCESS, EQUITABLE SUPPORT, AND TRANSPARENCY IN FOSTER CARE PLACEMENTS THROUGH A SUPPORTED KINSHIP DIVERSION MODEL

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## RECOMMENDATION SUMMARY

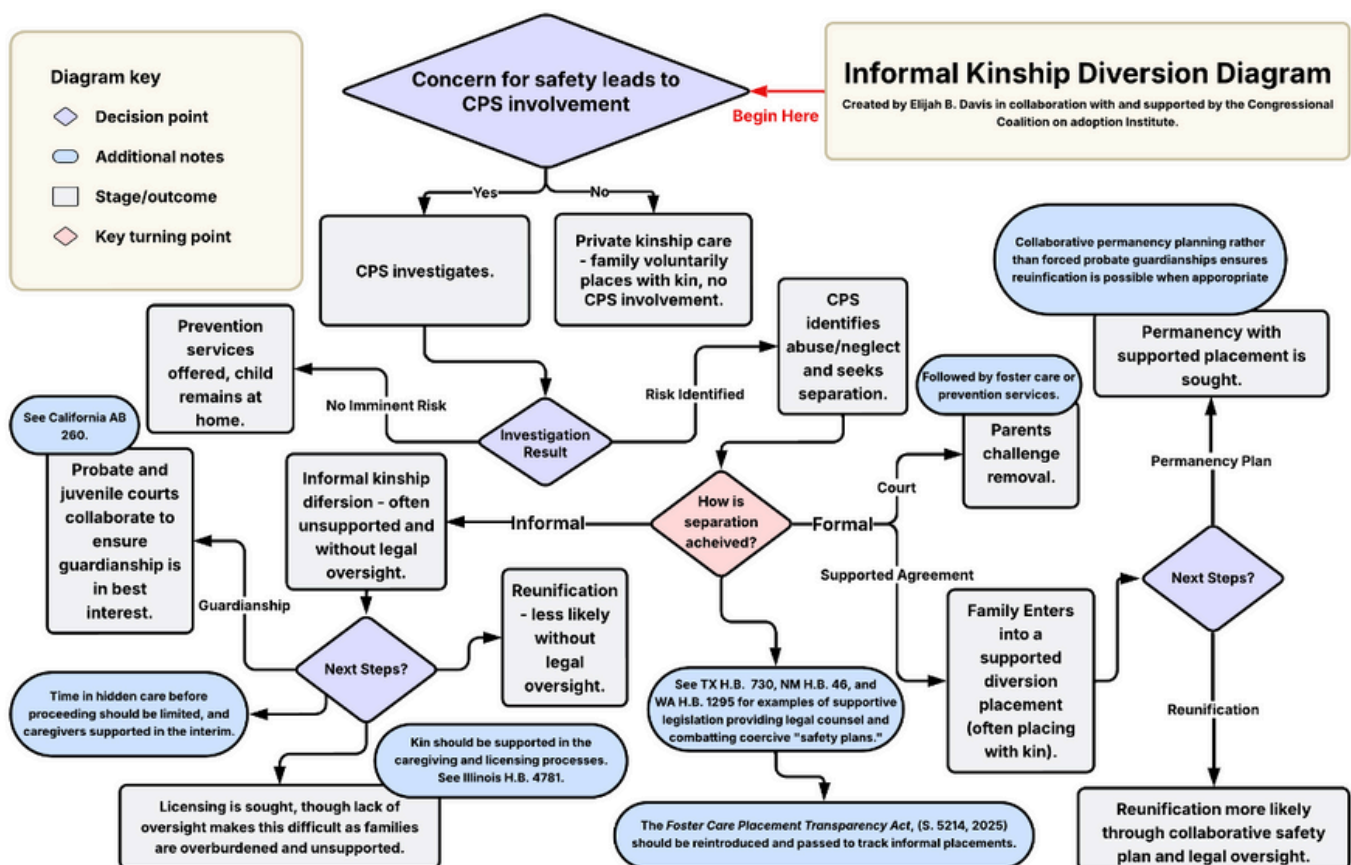
In order to enhance due process, provide equitable support, and increase transparency in informal foster care placements, Congress should pass legislation to 1) provide parents with access to legal counsel and oversight immediately at the time of interaction with Child Protective Services (CPS) using Texas H.B. 730, Washington H.B. 1295, and New Mexico H.B. 46 as precedent, 2) expand financial and supportive services for all known, safe, informal kinship caregivers, including those not yet licensed by following the model of Illinois H.B. 4781, 3) reintroduce and pass the Foster Care Placement Transparency Act, (S. 5214, 2025) in order to track informal kinship diversion, and 4) ensure that probate courts collaborate with juvenile courts to ensure reunification services are available; when appropriate, guardianships should be safe and in the best interest of both parents and children, as has been enacted in California A.B. 260.

## EXECUTIVE SUMMARY

Informal kinship diversion – defined in this report as out-of-home placement with kin due to Child Protective Services (CPS) involvement but without legal or court oversight – may benefit children and families when properly implemented with equitable support, legal oversight, proper tracking, and clear goals regarding reunification and licensure. Informal kinship may also include “private” kinship diversion, where families make kin placement arrangements without CPS involvement, though such cases fall outside the scope of this report. In contrast, formal placements involve legal proceedings or counsel, which are essential for ensuring due process, case tracking, and collaborative planning. While licensed formal caregivers receive essential financial and social support, most informal caregivers either lack licensing or face barriers to acquiring it, despite often having greater need. Federal policy currently lacks standards to ensure such oversight and support, leaving parents vulnerable to coercive separation and kin caregivers under-supported. In passing legislation aligned with the recommendations below, Congress may address these challenges by replacing informal kinship diversion with a “supported diversion” model — one in which parents and child welfare professionals collaborate, known informal placements are adequately supported, and advocacy is advanced through transparency.

## PERSONAL REFLECTION

My experience with both traditional (formal) and "hidden" (informal) foster care shapes this proposal. After initial separation from parents, being placed in a guardianship with kin despite our situation calling for CPS involvement, my brother and I faced ongoing challenges with caregivers who lacked state support and oversight – all without any reunification planning. After failed reunification efforts by our parents, I entered formal foster care before aging out, receiving crucial support as I entered adulthood. My brother immediately entered yet another probate guardianship without CPS or court reunification efforts. Better outcomes may have been possible with proper CPS involvement, parental support, and collaborative juvenile-probate court oversight.



## THE PROBLEM & CURRENT LAW

Informal kinship diversion often occurs when CPS pressures parents to place children with relatives through “safety plans” or “voluntary placement agreements” without legal oversight and often under threat of their children being placed in formal foster care and losing contact with them (Gupta-Kagan, 2020). While around 340,000 children are in traditional licensed foster care, estimates suggest 100,000–300,000 children are in informal arrangements (ACF, 2025; Malm et al., 2019; Casey Family Programs, 2023; Brown, et al., 2022).

Unlicensed informal placements receive less support despite often being in greater need, face reduced reunification chances, and are disproportionately represented in low-income and BIPOC communities (Armendariz, 2023; Edwards-Luce, 2022; Baskin, 2021; Brown et al., 2022; Caliendo et al., 2023; Schwartz & Krebs, 2020). Too often, child protection agencies have removed children without due process and failed to support impoverished kin caregivers (Asgarian, 2021; The Imprint, 2021; Ambrose, 2021; Smith, 2008; Croft, 1997). As a result, some experts have concluded that “informal placement is never justified” (Casey Family Programs, 2023; McDaniel, 2021; Schwartz & Krebs, 2020).

However, preserving caregiving options outside of formal child welfare involvement while addressing these issues may provide a necessary option for families. Kinship care leads to better outcomes than traditional foster care with non-kin, including fewer placement changes, reduced trauma, better cultural fit, and stronger community ties — especially when kin can obtain supports that accompany licensing (Child Welfare Information Gateway, 2022; Generations United et al., 2025). This proposal supports a “supported diversion” approach to kinship care that emphasizes proper tracking, equal support to formal care, collaborative decision-making, risk assessment, comprehensive services, clear reunification paths, and defined legal status (Annie E. Casey Foundation, 2013). This would directly benefit children and families currently in informal kinship arrangements who need support, as well as future children and families at risk of entering into such placements without due process or state tracking.

While some informal kin caregivers may currently receive indirect support through organizations funded by Title IV-E or the Family First Prevention Services Act, they are not eligible for direct foster care maintenance payments available to formal caregivers, being only eligible for TANF grants – leaving significant gaps in support (American Bar Association, 2024; Annie E. Casey Foundation, 2023). Current policy lacks provisions for legal counsel for threatened parents, case tracking systems, protection against forced probate guardianship, and adequate support for informal, unlicensed kin caregivers – who have demonstrated need for financial assistance, and ongoing support as they pursue licensure.

## POLICY RECOMMENDATIONS

In order to enhance due process, provide equitable support, and increase transparency in informal foster care placements, Congress should pass legislation to:

- **Provide parents with access to legal counsel and oversight immediately at the time of interaction with CPS, using Texas H.B. 730, Washington H.B. 1295, and New Mexico H.B. 46 as precedent.** Texas H.B. 730, for example, which requires legal counsel for parents, limits hidden placements to 30 days (with possible "good cause" extensions), and mandates tracking, has reduced unsupported hidden arrangements from 12,000 to 2,582 by requiring the system to either license caregivers, support family reunification, or proceed to court (Tiano & Suggs, 2024). Extensions should be granted for successful kin placements needing licensing time and struggling parents working toward reunification in a way that balances due process with preventing unnecessary disruption (Frank, 2023; Loudenback, 2023; NM, 2022; WA, 2023).
- **Expand financial and supportive services for all known, safe, informal kinship caregivers, including those not yet licensed, by following the model of Illinois H.B. 4781.** This legislation ensures that licensed kin receive payments equal to those of other licensed foster homes, allows unlicensed kin to receive at least 90% of that rate, and permits reimbursement for licensing-related expenses and emergency support when needed.
- **Reintroduce and pass the Foster Care Placement Transparency Act, (S. 5214, 2025) in order to track informal kinship diversion** (Cornyn & Ossoff, 2024).
- **Ensure that probate courts collaborate with juvenile courts to ensure reunification services are available; when appropriate, guardianships should be safe and in the best interest of both parents and children, as has been enacted in California A.B. 260.** Many states' practice of granting kin guardianships without juvenile court oversight undermines reunification and family preservation goals. Probate court decisions often finalize cases which need ongoing supervision (California Caregivers, 2021; Alliance for Children's Rights, 2025).