

# Every year, children are diverted away from foster care and placed with relatives. Nobody knows what happens next.

By **Katie O'Connor** - June 3, 2019



(Ned Oliver/ Virginia Mercury)

*Last in a two-part look at kinship care in Virginia. To read the first installment, [click here](#).*

There is an inherent conundrum built into child welfare. Social workers are trying to protect kids, but separating them from their parents is traumatizing, even if it's for their own safety.

And reams of [research](#) shows that, if they have to be removed from their homes, children do best when they're placed with family members.

So, for more than a decade, Virginia has been pushing to do just that: Divert the kids away from the system entirely by identifying relatives who can take custody if they're unsafe in their homes.

The trouble is, nobody knows what happens next.

“If you're asking me, at the state, what's occurring with that diversion practice — how is that happening, how is it occurring, which families are getting services, which are not, how quickly are the kids going back to the family — the biological family — what are the outcomes, do they ultimately stay with that family, that sort

of thing, I can't answer those questions for you," said Carl Ayers, director of the Division of Family Services with the Virginia Department of Social Services.

Diversion is, according to Ayers, the most "high risk" area within social services. By that he means there is no standardization to the practice. The state has no guidance, no regulation, no code that governs how local departments should practice diversion. And because Virginia is [state-supervised and locally-administered](#), each local department of social services practices diversion in whatever way it sees fit.

That means that some families may get a home visit from a social worker before taking in the child. Some may not. In some counties, a caseworker might provide support to the family after diversion has taken place.

But often, the cases are "closed prematurely and meaningful permanency may not be established for the child," states a 2016 state Department of Social Services [report](#) on the practice.

Advocates largely agree that diversion is well-intentioned. It's an attempt to lessen, as much as possible, the trauma that a child will inevitably go through when being separated from their parents by at least keeping them with familiar people.

But in Virginia the practice is engulfed in a mountain of uncertainties. While foster care is often less than an ideal situation, it at least gives caseworkers the legal standing to check on the child, ensures the family has training to help them cope with emotional trauma and that a judge can determine if the child should be reunified with their parent.

In diversion, none of that is guaranteed.

"We've lost all control," said Cathy Pemberton, a recently-retired DSS employee who worked at the state, regional and local levels over her 34-year career. "We want to do the right thing for the child, but then we lose the contact, we lose the control and we don't really know."

## Lack of data

Diversion is a national practice that many states use, and Virginia really started ramping up its use during Gov. Tim Kaine's administration in an effort to reduce foster care numbers.

The term "kinship care" refers to all sorts of situations, including informal relationships when grandparents take custody of a child without any involvement from DSS. Diversion occurs when child protective services has already gotten involved with the case, and when the parent or social worker identifies a relative who the child can live with to avoid foster care.

Often, once it is decided that a child cannot live with their biological parents and a relative is willing to take them, the case is closed and no additional tracking occurs. And it's unclear how long diversion placements last. They can last just a few days, or they can become permanent.

Tomi Turner, family services manager with the Bedford Department of Social Services, said in her department diversion could be used when there is a heated argument teetering on emotional or physical abuse within the family. Then it might last a few days for things to cool off and for workers to connect the family to services.

In other cases, she said, there may be some intense mental health or substance abuse challenges, for example, that require the diversion to last longer while the parents get whatever services they need. Or it may ultimately result in the relative taking custody so that the child has some long-term permanence.

The best insight into the number of diversions that occur in Virginia is data from language in the 2016 budget, which had some local departments track all diversion placements.

Thirty-one departments participated, and from July 2016 to December 2017, about 1,300 families were diverted, encompassing about 2,200 children, Ayers said.

There are 120 local departments in Virginia. If all of them practice roughly the same amount of diversion, around 5,000 children may have been diverted within that 18-month time frame. There are about [4,700 children](#) in foster care in Virginia.

“That’s how prevalent diversion practice is, that’s what it looks like,” Ayers told the Virginia Board of Social Services during its April meeting. “We have to figure out some type of guidance.”

## Different opinions

There are varying thoughts on diversion within the world of child welfare. Few experts would say that it does not have its uses, but there are concerns around whether it really sets the child up for success.

“While some family members may offer a safe, less intrusive alternative to the bureaucratic complexities of state-supervised foster care, some child welfare experts worry that too many abused or neglected children are being inappropriately ‘diverted’ to live with relatives without the necessary safeguards and supportive services for children, caregivers and birth parents,” states a comprehensive report by the Annie E. Casey foundation on the [kinship diversion debate](#).

In Virginia, kinship caregivers are often doing [the same work as foster parents](#) but without the support or financial assistance. That's concerning to many child welfare experts, because the children almost always come with a lot of emotional trauma that their new caregivers may not be equipped to handle.

"Parenting is the hardest job in the world in the best situation," said Lisa Specter-Dunaway, CEO of the advocacy group Families Forward. "So when you add mental health issues, behavioral health, significant trauma, it makes something difficult even more difficult."

Others argue that the foster care system is inherently traumatizing and keeping kids out of it is always better for their well-being.

"Some agency leaders and families believe strongly that, when relatives are willing and able to care for children safely, children do better without the uncertainty and potential disruption of ongoing system involvement," the Annie E. Casey foundation report states.

"It is complex," Pemberton said. "We don't want kids in foster care, it's not good for kids at all. But when it happens, and there's no other option, then we need to make sure that we're doing everything that the child needs to recover from whatever brought her to us to begin with. And when you don't have any mandated follow up or even legal ground to follow up, you just don't know that that happened."

But the biggest problem for advocates and those working in child welfare in Virginia is the uncertainty. Maybe diversion is working, but nobody can know for sure.

"I think, in our effort to reduce the number of children in foster care, one of the ways to do that is to increase these types of placements," said Jeanine Harper, executive director of Greater Richmond SCAN, or Stop Child Abuse Now. "And that's a really healthy, good thing for children and their families and for caregivers: To know their children are with people that will maintain the bonds, potentially.

"But we're doing it, and we don't really know how well we're doing it," she continued. "Ultimately we don't know if children are better off."

## **Reunification with parents**

Additional concerns swarm around whether or not parents are getting a fair shot at reunifying with their children once they've been separated. In foster care, a judge can decide if the child can live with the parent again. But there is no court oversight in diversion.

"Anytime the state does something that interferes with someone's constitutional rights, the state has a responsibility there," said Valerie L'Herrou, an attorney with

Every year, children are diverted away from foster care and placed with relatives. Nobody knows what happens next. - Virginia Mercury  
the Virginia Poverty Law Center. “Diversion, arguably, creates that responsibility.

“I would certainly agree that we don’t have to have the courts involved in that situation where there’s a clear pathway for kids to come back,” she added. “So the problem is when there isn’t a clear pathway and the kid stays away forever.”

The 2016 Virginia Department of Social Services report points out that, “when custody is transferred to a kin caregiver,” the department “has no further legal obligation to the parent in terms of reunification.”

“They’ve deprived this parent of their child using the force of the state, in this case as a threat, but they’ve provided no due process whatsoever,” L’Herrou said.

## Regulations

Right now, the state is waiting on a report from Child Trends, a child-focused research organization, with more details on the data collected between 2016 and 2017 on diversion. From there, Ayers said, the state will determine how to provide guidance to the local departments.

“I’m not sure where diversion will take us,” he said. “I’m not sure that I’m majorly worried that we’re placing children at risk. I’m not worried about their safety from that end of it.”

Andy Crawford, director of the Bedford Department of Social Services, said regulations are a double-edged sword. He would like to see some guidance around diversion, but not if it becomes an unfunded mandate.

Local departments of social services are [struggling with high turnover and low retention](#) rates in their work forces. If they don’t get the staff they need to institute new requirements for diversion – to pay for the time a social worker would have to spend checking up on families, for example, or inputting data – new regulations could hurt more than they help.

“We have a problem where we don’t have enough staff in this state,” said Crawford, who is also the president of the League of Social Services Executives. “So what happens when you don’t have enough staff is people make mistakes or they don’t do their jobs well because they’re stressed. So when people make mistakes the General Assembly makes more policy. When the General Assembly makes more policy, that makes the work even harder.”

The first step with diversion, though, is understanding if it actually helps children.

“We cannot answer the question: What happens to these kids?” said Allison Gilbreath, policy analyst with Voices for Virginia’s Children. “We don’t have any data, we don’t know qualitatively: Are they better off? Are they having their basic

needs met long term, do they enter the system later, do they eventually go back to their family of origin? We can't answer those questions. And that concerns me.

“That’s a lot of children who we’re not 100 percent sure we did the right thing. We may have, but we don’t know.”

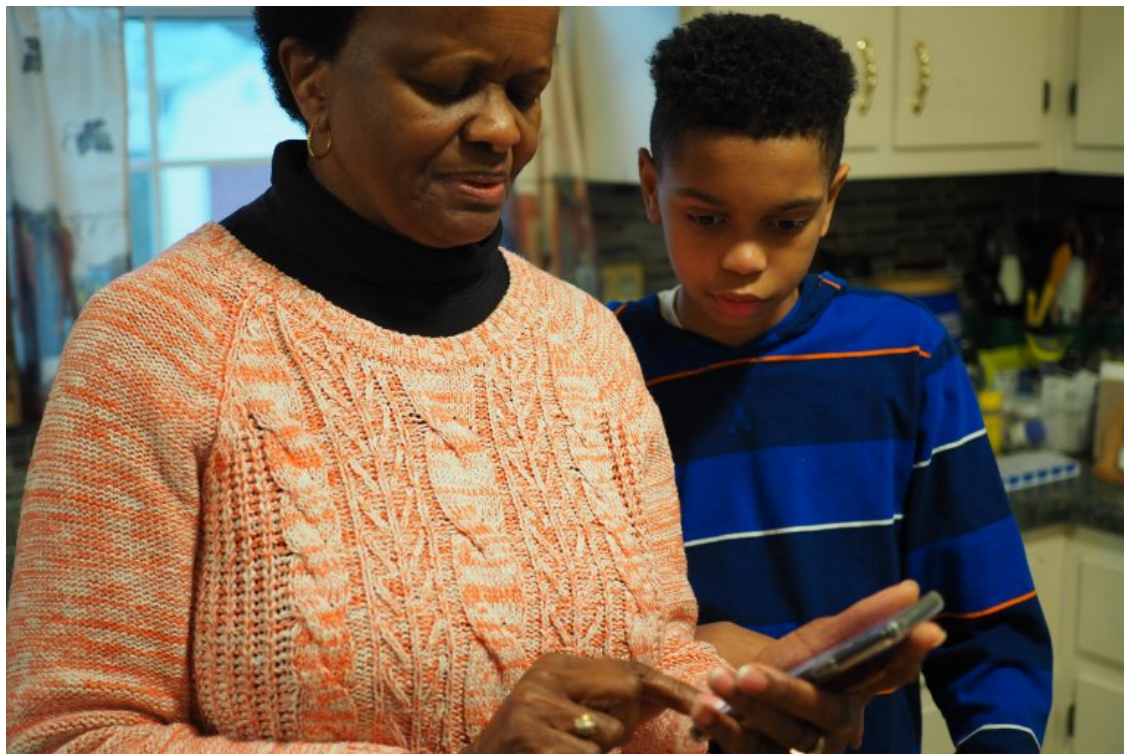
#### **Katie O'Connor**

Katie, a Manassas native, has covered health care, commercial real estate, law, agriculture and tourism for the Richmond Times-Dispatch, Richmond BizSense and the Northern Virginia Daily. Last year, she was named an Association of Health Care Journalists Regional Health Journalism Fellow, a program to aid journalists in making national health stories local and using data in their reporting. She is a graduate of the College of William and Mary, where she was executive editor of The Flat Hat, the college paper, and editor-in-chief of The Gallery, the college's literary magazine.



## 'They forgot about us:' Thousands of families are doing the same work as foster parents in Virginia, without the support

By **Katie O'Connor** - June 2, 2019



Thirteen-year-old Isaiah helps his grandmother, Carolyn Richardson, find a picture on her phone. Isaiah and his older sister Lilia are among thousands of Virginia children living with relatives outside of the state's foster care system. (Katie O'Connor/Virginia Mercury)

*First in a two-part series examining kinship care in Virginia. To read the second installment, [click here](#).*

On a June day in 2011, Ray Richardson was at work when he got a call from his daughter and was given a choice: Either his granddaughter, 7-year-old Lilia, would be staying with Richardson and his wife, or she was going into foster care.

“Period. Point blank,” Richardson recalled.

So he and his wife, Carolyn, drove up to Fredericksburg that day. They packed Lilia and the black garbage bags filled with her toys into their car, and Carolyn Richardson asked her daughter: “Please, let them both stay together. Let me take Isaiah, too, so they’ll be together.”

They would get 5-year-old Isaiah the next day, when their daughter — the children’s father had recently died — dropped him off. Carolyn Richardson would keep the kids in the same room for a while after they moved into their grandparents’ house in Chesterfield, because she wanted them to stay together after so much upheaval.

The Richardsons found themselves in a role they never expected, and now they're both parents and retirees. They've had to answer the same question presented to every other family in their situation: How will they make ends meet?

About **70,000 children** are in the care of their grandparents in Virginia, according to the Annie E. Casey Foundation. That's about 4 percent of Virginia's children. More are being raised by other relatives: aunts, uncles and cousins.

Known as kinship families, they're doing the same exact work as foster families, yet in Virginia they get none of the support or financial assistance that formal foster families receive. They could get a monthly stipend if they jumped through the numerous hoops – from background checks to training – required to become a licensed foster home, but most simply bring the children into their homes without thinking twice about their options.

They struggle with poverty, caring for children who often have gone through traumatic experiences and frequently have nowhere to turn for help.

“I call kinship families the net underneath child welfare,” said Allison Gilbreath, policy analyst with Voices for Virginia's Children, an advocacy group. “And if someone were to pull that safety net away, child welfare would truly crumble. Caseloads would double and they would have such a spike in need for families that they would not be able to properly care for them all.”

Sometimes, relatives take the child in proactively, before social services has gotten involved. Other times, local departments help parents identify relatives and intentionally divert kids from the foster care system.

But almost always, the relatives take the children in to protect them and keep them connected to family. Sometimes, advocates and social services workers say, they understand the challenges they will face.

Sometimes they don't.

## **Scraping by**

Janet Wheeler doesn't know how she's going to buy a new stove. It inexplicably caught fire last week, and the 63-year-old Glade Spring resident has already taken out a loan against her home to do some repairs to the house.

“We barely scrape by,” she said.

Wheeler has been looking after her 13-year-old granddaughter most of her life. She couldn't have foreseen that she'd be diagnosed with both breast and colorectal cancer seven years ago.



“I almost died once, and I remember I wanted to go because it was so peaceful,” she said.

“And they called my daughter in, and one of my good girlfriends was there with me, and she had my granddaughter. And I looked at my granddaughter and I looked at my daughter, and it’s like I knew I can’t go yet. I have to fight. So my prayer was, ‘God, let me live to see her grow.’ So, yeah. ... It’s been hard ... for both of us.”

*Janet Wheeler’s granddaughter cuts her hair in preparation for chemotherapy. (Photo courtesy of Janet Wheeler)*

Her health problems have only added to her litany of challenges. She has numerous specialists she’s supposed to see, but she doesn’t see them all because she can’t afford the co-pays.

She’s found out through online grandparent groups that not every state is like Virginia. She hears stories of kinship families in Tennessee in situations just like hers who get \$1,000 a month.

“I’d be happy with \$500,” she said. “Oh my gosh, \$500 would help me astronomically.”

Becoming a kinship family has transformed Wheeler into an advocate. She thinks it’s unfair that non-relative foster families get a monthly maintenance payment and training to help their children get the therapy and help they need to overcome traumatic experiences – while kinship families can’t access any of that.

She has ensured her granddaughter gets counseling. Wheeler needs counseling herself. But she can’t afford it.

“You are so isolated,” she said. “At the end of the day, if you have a few minutes, you have nobody to call. Nobody wants to talk to you and hear about this stuff. They’re living their lives.”

There are a few basic benefits available to kids living with relatives. They can receive Medicaid or free lunch at school, among others. Some localities have their own supports in place for kinship families, too, that aren’t available statewide.

They can also qualify for what’s known as child-only Temporary Assistance for Needy Families, or TANF, which is meant for kinship-care situations. But not everyone is eligible. Wheeler hasn’t had success in applying, she said, but the Richardsons have.

Ray Richardson said the family receives \$247 per month for both Lilia and Isaiah through TANF. That hardly covers groceries.

The kids are doing well. Lilia, now 15, says other families probably face bigger challenges than hers. Carolyn Richardson retired when they got the kids because, since they were so young, she needed to make sure she was home to get them off the bus every day. Ray Richardson continued to work until he retired in 2014, about three years after Lilia and Isaiah moved in with them.

Once the family went on a fixed income, things got tougher, he said.

“We have to try to stretch the social security from paycheck to paycheck and we also — I tucked my tail and applied for the food bank, and we were approved to go to the food bank twice a month,” he said.

“And you’ve got to understand that that hurt me to my heart.”

Both the Richardsons and Wheeler wonder: They were proactive and took their grandchildren in before they were at risk of becoming part of the foster care system. Why don’t they get any of the support?

“The ones that went to court out of love in our hearts,” Wheeler said. “They forgot about us.”

*From left to right: Lilia, 15, Isaiah, 13, Carolyn Richardson and Ray Richardson in their Chesterfield County home. (Katie O’Connor/Virginia Mercury)*

## Setting them up for failure

The 2019 General Assembly session saw an outpouring of support from lawmakers for Virginia’s foster care system, spurred by a scathing Joint Legislative Audit and Review Commission [report](#).

Advocates are hoping that momentum will lead to more investments in the child welfare system, particularly for kinship families so they can receive the same support as foster families: annual training on how to help a child who has been through trauma or assistance managing behavior, as well as the monthly stipend.

It's a big ask. There are about 4,700 children in foster care in Virginia. Thousands more live in an informal kinship household. Right now Virginia offers between about \$470 and \$700 a month to registered foster parents, depending on the age of the child.

There are also many other areas within the social services system that need funding — from upgrading the [training](#) system to [bolstering the workforce](#).

But the cost of not providing financial support to kinship families is even higher, pointed out Lisa Specter-Dunaway, CEO and president of Families Forward Virginia, an advocacy organization.

“It really sets up the adults, and it sets up the kids, for failure because the information they need is not readily available, the supports are not readily available,” she said.

In advance of the 2020 General Assembly session, Gilbreath, with Voices for Virginia's Children, has been working to identify how other states provide funds and support to kinship families, and how they pay for it so that maybe Virginia could do the same — but it's turned into a surprisingly difficult task.

“Many states already had kinship care created in their system from the onset,” she said. “So trying to figure out what they did is such a challenge because when you ask them, they don't understand my question. They're just like, ‘This is the way it's always been.’”

Virginia is expected to be an early implementer of the federal [Family First Prevention Services Act](#), though, which is likely to help kinship families. It could increase funding for kinship navigator programs, to help people like Wheeler and the Richardsons figure out what benefits they might qualify for. Some localities already have such programs, but they're not readily available statewide.

Last year, Gilbreath went on a [listening tour](#) in which she met with kinship families all over the state.

“I was really shocked by the stories we heard,” she said. “In Hampton Roads we asked: ‘Tell us if you've been impacted by the opioid epidemic.’ And every single person raised their hands.”

Many of the participants were grandparents, but there were also great-grandparents, Gilbreath said, some in their late 70s, some in their 80s, raising very

young children. All of them said that their financial situation is the number one source of stress in their lives.

“All of them said that they were jealous of foster parents,” she said, “because the state would pay a stranger to raise this relative child, but they won’t give them any assistance to do the same exact thing.”

## **‘It didn’t do anything for us’**

There has already been a slight push in Virginia to expand services to kinship families, but it applies to only a sliver of those who are actually caring for relatives’ children.

There are many ways that a child may come into the care of their relatives. One is becoming a registered foster family and taking the child in that way.

In 2018, state lawmakers created a Kinship Guardian Assistance Program, or [KinGAP](#), which provides monthly payments for those children who enter foster care and are placed with a relative. It took five years of advocating and submitting the legislation before it was passed.

But eligibility is restricted to those who have been placed with the relative for at least six months and for whom reunification with the birth family or adoption has been ruled out.

Both the Richardsons and Wheeler were excited about the program and advocated for its passage. But then they realized they wouldn’t be eligible: Both families are examples of informal kinship care relationships. They had never been licensed foster families.

“I thought it took care of people like us, as well,” Ray Richardson said. “But then I found out that it didn’t cover our situation. ... Basically, it didn’t do anything for us. Zero.”

Virginia has very few registered relative foster families. Only [7 percent](#) of children in foster care are living with a relative, according to the Annie E. Casey foundation, compared to a nationwide average of 32 percent.

One reason for that, pointed out Carl Ayers, director of the Division of Family Services with the Department of Social Services, is that families prefer not to have social services in their lives. Rather, he said, the state focuses on preventing kids from coming into foster care in the first place by diverting them to live with a relative once child protective services deems the parent or guardian is unable to care for the child.

A lot of families don't want to become foster parents, he said, because they don't want the oversight — background checks and court visits — that go along with that.

But some worry that families might not know what their options are when they take in relative children, and they're often making the decision to accept the kids quickly, usually because safety is a concern.

Advocates are hoping that KinGAP is the first step, and that it shows a willingness on the part of lawmakers to extend support to kinship families.

*i*

*Ray Richardson points out his family members in a collage of images in his family's home. (Katie O'Connor/Virginia Mercury)*

## The role of trauma

There is an inherent understanding by people who work in child welfare — including workers at local departments of social services and advocates alike — that being with a relative is the best place for a child who has to be separated from her or his parents.

“Kids do better in kinship families, when they aren't taken away from everything they know, and they maintain those connections,” said Laura Ash-Brackley, chief programs office with the Children's Home Society of Virginia. “And we really should be supporting these families and helping them to make this work.”

A relative is also more likely to stick with the child while they're dealing with whatever trauma they may have experienced that forced the separation from their biological parents — or from the inherent difficulty of separating from their parents in the first place.

“For one thing, the trauma is less because they don't feel like, ‘I've been ripped away from everything I've ever known,’” said Valerie L'Herrou, an attorney with the Virginia Poverty Law Center. “They might be two or three removals from mom, but

'They forgot about us:' Thousands of families are doing the same work as foster parents in Virginia, without the support - Virginia Mercury

the connection is still there. Chances are, you know this person, if it's a grandpa or aunt or uncle.

"And when kids in trauma act out, a stranger is more likely to say, 'I just can't keep this kid,' and find them a different placement. A relative is more likely to say, 'We're going to try and stick this out.'"

But it's not all upside, L'Herrou added, especially if families aren't given the support they need. Many are poor, and many are single grandmothers or great-grandmothers.

Plus, raising children who are traumatized is different and more difficult.

"What's happened is: That person who was supposed to care for you, comfort you and help you regulate your emotions is a person who now is threatening, or doesn't take care of you and you have to take care of your own needs," Ash-Brackley said.

"Your whole emotional regulation system gets hijacked and so you're much more hyperaware, hypersensitive to things. You see kids totally blowing up and overacting to something very small, and it's because they feel threatened physiologically and emotionally."

Older caregivers from a different generation may not realize that a traumatized child is going to react badly if they're told to go to their room, for example, especially if they've been neglected for long periods of time, Ash-Brackley said. Or a child who has experienced food insecurity might have a meltdown if their request for a snack before dinner is denied.

"There has been, I think, among some folks, an attitude that they're kin, so they ought to step in and do this, and we don't need to support them," said Bruin Richardson, chief advancement officer with the Children's Home Society of Virginia.

"And we don't think that's correct. It may be how you feel, but it doesn't reflect the reality that sometimes these are folks of limited means, and they need assistance to help care for another child they weren't planning on having to care for."

#### **Katie O'Connor**

Katie, a Manassas native, has covered health care, commercial real estate, law, agriculture and tourism for the Richmond Times-Dispatch, Richmond BizSense and the Northern Virginia Daily. Last year, she was named an Association of Health Care Journalists Regional Health Journalism Fellow, a program to aid journalists in making national health stories local and using data in their reporting. She is a graduate of the College of William and Mary, where she was executive editor of The Flat Hat, the college paper, and editor-in-chief of The Gallery, the college's literary magazine.



