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BORDEN, J., with whom NORCOTT and ZARELLA, Js., join, dissenting. In my opinion, the majority has misapplied the collateral consequences exception to the mootness doctrine in the present case. I, therefore, respectfully dissent.

In *State* v. *McElveen*, 261 Conn. , , A.2d (2002), we recently reaffirmed our adherence to the collateral consequences exception to the mootness doctrine, and stated that, for such an exception to apply, a litigant must show ''that there is a reasonable possibility that prejudicial collateral consequences will occur'' if the underlying judgment or, as in this case, the administrative ruling is permitted to stand. We further stated that, in this context, a ''reasonable possibility'' must amount to more than mere conjecture but need not be more probable than not. Id., . Thus, a ''reasonable possibility'' of adverse consequences stemming from the judgment at issue must be something more than a possibility, but may be less than a probability.

We also took the occasion in *McElveen* to articulate the rationale for the exception: ''Where there is no direct practical relief available from the reversal of the judgment, as in this case, the collateral consequences doctrine acts as a surrogate . . . afford[ing] the litigant some practical relief . . . .'' Id., . Thus, the rationale for the collateral consequences doctrine is rooted in the very mootness doctrine to which it is an exception. The mootness doctrine turns on the inability of the court to afford some practical relief to the litigant from the judgment under appeal. See, e.g., *Darien* v. *Estate of D'Addario*, 258 Conn. 663, 676, 784 A.2d 337 (2001). If, however, there is no *direct* practical relief available from a reversal of the judgment, the collateral consequences doctrine acts as a surrogate: it applies where there is some *indirect*, or *collateral*, relief that a decision in the case in question will provide.

The emphasis, in both the doctrine and the exception, is on practicality. This suggests, therefore, that, in applying the collateral consequences doctrine, the court should be able to identify those collateral consequences that have some modicum of concreteness, because the doctrine serves as a surrogate for otherwise concrete adverse consequences supplied by a judgment that is not moot. I agree with the majority that the ''reasonable possibility'' test is an appropriate formulation of how to go about identifying that modicum of concreteness. Unless that test is applied with some sense of reasonable restraint, however, the exception will far outstrip its fundamental purpose. This is where I part company with the majority in the present case. In my view, the collateral consequences identified by the majority in the present case are possible and conjectural, but no more.

It is necessary, first, to state certain facts that are disclosed by the record, most, but not all, of which the majority notes. In July, 1992, Patricia R. (mother) had in her custody four of her seven children: E, born October 12, 1983; S, born December 30, 1987; D, born July 4, 1991; and K, born June 7, 1992. Each of these children has a different father. They are, therefore, half siblings of each other. Furthermore, the father of D is the brother of the plaintiff, Shirley Williams, in the present case. Therefore, the plaintiff is the aunt of D.

In July, 1992, all four children were placed with the plaintiff, pursuant to a voluntary placement agreement with the department of children and families (department), because their mother, who had a long history of drug abuse, could not care for them. In addition, the mother has three other children who had been removed from her home as a result of her inability to provide for them, but none of those children had been placed with the plaintiff. Thus, in July, 1992, the plaintiff took in D and D's three half siblings, keeping that portion of the mother's family together. At the same time, the plaintiff applied to the Probate Court for formal guardianship of D, who was her only blood relation among the four half siblings. The plaintiff also has children of her own.

In January, 1993, the following occurred: (1) the department issued to the plaintiff the special study foster care license, which is the subject of this case, for S, K, and E; and (2) the Probate Court declared the plaintiff legal guardian of D. Therefore, at that time the plaintiff was the special study foster care licensee of S, K and E, and the guardian of D. Thereafter, in December, 1996, E ran away from the home after allegedly attacking two of the plaintiff's own children, and the plaintiff requested that he not be returned to her. E is now eighteen years old and, therefore, wholly outside the department foster care system. In September, 1996, K's putative father consented to the termination of his parental rights. In February, 1997, the parental rights of the mother were terminated with respect to both S and K.[1] Thus, when the department ultimately revoked the plaintiff's special study foster care license in June, 1999,[2] she was the special licensee of S and K, and the guardian of D.

As the majority notes, the plaintiff appealed to the trial court from the revocation and filed a habeas corpus petition seeking custody of S and K. The department then decided to support the plaintiff's petition for custody, and, as a result, the court named the plaintiff legal guardian and custodian of S and K. This rendered moot any need for a continuation of the special study foster care license, which was the subject of the appeal. Accordingly, the trial court dismissed the appeal as moot.

Thus, to summarize the entire factual picture, as disclosed by the record: the plaintiff was originally the physical custodian of four of seven half siblings by the same mother, one of whom was her niece. One of the four is now an adult, and the plaintiff is now the guardian of the other three children, including her niece. Furthermore, the department specifically supported her postlicense revocation petition to be named the guardian of the two children who are the subject of the license presently at issue.

With this background in mind, I turn to the majority's conclusion that the revocation of the special study foster care license concerning S and K is not moot because there is a reasonable possibility of adverse consequences to the plaintiff from the revocation of that license. The majority offers three bases that, in its view, taken together satisfy the reasonable possibility standard: (1) ''the reasonable possibility that the department could use the plaintiff's license revocation to her detriment in future proceedings''; (2) the ''reasonable possibility of adverse use of the plaintiff's record'' by disclosure thereof ''to numerous government agencies upon request'' pursuant to General Statutes (Rev. to 2001) § 17a-28 (f), as amended by No. 01-142, § 1, of the 2001 Public Acts;[3] and (3) such a dissemination pursuant to § 17a-28 (f) ''would taint the plaintiff's reputation.'' I discuss each of these in turn.

The majority's first basis, namely, that the department could use the revocation to the plaintiff's detriment in future proceedings, is explicitly grounded in the assertion that there is a ''reasonable possibility that the plaintiff will be asked again to assume the role of foster parent either by her brother or by the children's mother, who has a history of drug addiction and who repeatedly has turned to the plaintiff for help.''[4] This assertion, however, is predicated upon *all* of the following events taking place: (1) either the plaintiff's brother or the mother will have a child in the future;[5] (2) that child will be by a partner who will, herself or himself, be unable to care for the child; (3) the plaintiff will again be asked, and will be willing, to take the child in, either under a voluntary placement agreement or under a new special study foster care license; and (4) the department will somehow use the revocation against the plaintiff by deciding to oppose such an arrangement. I concede that this entire chain of events *possibly* could occur. I suggest, however, that it is not *reasonably* possible, in the sense of being anything more than mere conjecture, especially considering that the department already has demonstrated its confidence in the plaintiff's parenting abilities by explicitly supporting her successful application to be named the guardian of S and K,[6] and that the mother's other three children were *not* placed with the plaintiff, indicating that neither the mother nor the department has ever considered the plaintiff as the only

resource for her children.

The majority's second basis is that there is a reasonable possibility of the revocation being disclosed pursuant to § 17a-28 (f); see footnote 3 of this opinion; to the plaintiff's detriment in a ''variety of ways . . . .'' The majority does not, however, either analyze just how the revocation would be disclosed pursuant to that statute, or explain how such disclosure would adversely affect the plaintiff. I suggest that such an analysis demonstrates, again, nothing more than conjecture.

Section 17a-28 (f) provides for department records, which are otherwise confidential, to be disclosed without the consent of the subject of the records, ''upon request,'' to the following named agencies or persons under specified circumstances: (1) a law enforcement agency; (2) the chief state's attorney or a state's attorney for a judicial district investigating an allegation of child abuse; (3) an attorney representing a child in litigation involving his or her best interests; (4) a guardian ad litem representing a child in litigation involving his or her best interest; (5) the department of public health in proceedings involving licensure under that department; (6) any state agency that licenses individuals to educate or care for children pursuant to General Statutes § 10-145b or General Statutes § 17a-101j; (7) the governor and certain legislative committees; (8) local or regional boards of education; and (9) a party in a custody proceeding where the records at issue concern the subject child or his or her parent. The statute also provides for disclosure to the department of public health for the purpose of determining one's suitability for employment in a child care facility, and the department of social services regarding the suitability of a person for payment from the department for child care. A careful analysis of the statute, as applied to the facts of this case, demonstrates that the possibility of disclosure under any of these provisions is no more than speculative, and that, even if there were such disclosure, the possibility of harm is, similarly, no more than speculative.

Disclosure to a law enforcement agency presumes that someone would have accused the plaintiff of having committed some crime, and that the law enforcement agency would somehow use the special foster care license revocation to her detriment in investigating that crime. It is pure conjecture that the plaintiff would, in the future, be the subject of a criminal investigation, and even more conjectural that, if that somehow were to come to pass, it would be the type of criminal investigation that could possibly implicate this record of revocation. Disclosure to the state's attorneys explicitly presupposes that the plaintiff would be accused of child abuse. There is not a shred of evidence in this record to suggest such a possibility. Disclosure to an attorney or guardian ad litem presupposes some litigation over

the child's best interest. It is difficult to imagine who would be initiating such litigation over S and K, especially considering that their parents' parental rights have been terminated.[7] Disclosure upon request by the public health department is not a reasonable possibility because there is no indication that the plaintiff might ever seek licensure from that agency. Disclosure to a state agency that licenses individuals to educate and care for children is, likewise, a remote possibility. First, there is nothing to indicate that the plaintiff may, at some future date, seek employment requiring teacher certification pursuant to § 10-145b. Second, there is nothing in the record to support the inference that the plaintiff is likely to seek licensure to provide care for children at an institution or facility as contemplated by § 17a-101j. Disclosure to the governor or legislature is limited by the provision that ''no names or other identifying information shall be disclosed unless it is essential to the legislative or gubernatorial purpose . . . .'' General Statutes § 17a-28 (f) (7). It is difficult to imagine such a scenario regarding the identity of the plaintiff, S or K. Disclosure to the specified boards of education under the statute does not even apply to these records, because that disclosure is limited to certain specified educational records. Disclosure to a party in a custody proceeding involving either S or K is not a reasonable possibility, because there are no such parties anywhere on the horizon. See footnote 7 of this opinion. Finally, there is no indication that the plaintiff will ever seek employment from a licensed child care facility, or that, if she is receiving or is eligible for child care payments for S and K from the department of social services, it will have any reason to request this record of revocation, or that it would somehow thereby deny her benefits to which she was otherwise entitled.

The majority's third basis, namely, that the revocation proceeding would taint the plaintiff's reputation, is specifically tied to the purported disclosure of such proceeding ''to various government agencies pursuant to § 17a-28 (f) . . . .'' Thus, in the majority's view, the potential for disclosure under that statute gives rise to a reasonable possibility of harm to the plaintiff's reputation. I have already discussed why, in my view, no such disclosure is a reasonable possibility. If there is no such possibility of disclosure, then there is no such possibility of any reputational harm. I would only add to this what I note previously, namely, that even if the revocation were somehow disclosed pursuant to that statute—a potentiality that is no more than conjectural—it would be accompanied by the concomitant fact of the department's specific judicial endorsement of the plaintiff as a suitable guardian for S and K. This fact can only detract from the otherwise slim possibility of reputational harm that could possibly flow from any such disclosure.

Finally, I address the majority's position that it need

not consider whether any one of these possible adverse effects would establish a reasonable possibility on its own, because the majority concludes that their totality is sufficient to establish a reasonable possibility of harmful collateral consequences. That cannot be the appropriate analysis of the collateral consequences exception to the mootness doctrine. One cannot establish a reasonable possibility by simply adding up several conjectures. If that were so, then one could always establish a reasonable possibility of harm simply by stretching one's imagination far enough to encompass numerous conjectural harms, and then adding them up to equal a reasonable possibility. To quantify the matter, suppose we could conjecture six possible harms, each of which had no more than a 5 percent chance of occurring. By the majority's approach, there would be a 30 percent chance of harm. Indeed, if we could imagine eleven of such harms, their total would become more probable than not. Under this approach, then, the exception would truly swallow the rule.

Accordingly, I conclude that there is no reasonable possibility of adverse collateral consequences in the present case, and the case is therefore moot. I would reverse the judgment of the Appellate Court and remand the case to that court with direction to affirm the trial court's judgment of dismissal.

[1] The record also reveals that, in February, 1996, the department petitioned to terminate the parental rights of S's father, as well. That petition, however, was subsequently withdrawn, as the department felt that it had not made reasonable efforts to reunify S with her father.

[2] The basis of the revocation was that the plaintiff was in violation of department regulations regarding: (1) who may be members of the household; and (2) the provision of substitute care. The record discloses that the factual basis for the first ground was that a child of the plaintiff, who was then living in the home, had a drug-related felony conviction. The record does not disclose the factual basis for the second ground.

[3] General Statutes (Rev. to 2001) § 17a-28 (f), as amended by No. 01-142, § 1, of the 2001 Public Acts, enumerates a variety of exceptions to the confidentiality of access to certain department records, providing: "The commissioner or the commissioner's designee shall, upon request, promptly provide copies of records, without the consent of a person, to (1) a law enforcement agency, (2) the Chief State's Attorney or the Chief State's Attorney's designee or a state's attorney for the judicial district in which the child resides or in which the alleged abuse or neglect occurred or the state's attorney's designee, for purposes of investigating or prosecuting an allegation of child abuse or neglect, (3) the attorney appointed to represent a child in any court in litigation affecting the best interests of the child, (4) a guardian ad litem appointed to represent a child in any court in litigation affecting the best interests of the child, (5) the Department of Public Health, which licenses any person to care for children for the purposes of determining suitability of such person for licensure, (6) any state agency which licenses such person to educate or care for children pursuant to section 10-145b or 17a-101j, (7) the Governor, when requested in writing, in the course of the Governor's official functions or the Legislative Program Review and Investigations Committee, the committee of the General Assembly on judiciary and the committee of the General Assembly having cognizance of matters involving children when requested in the course of such committees' official functions in writing, and upon a majority vote of said committee, provided no names or other identifying information shall be disclosed unless it is essential to the legislative or gubernatorial purpose, (8) a local or regional board of education, provided the records are limited to educational records created or obtained by the state or Connecticut-Unified School District #2, established pursuant to section 17a-37, and (9) a party in a custody proceeding under section 17a-112, or section 46b-129, as amended

by this act, in the Superior Court where such records concern a child who is the subject of the proceeding or the parent of such child. A disclosure under this section shall be made of any part of a record, whether or not created by the department, provided no confidential record of the Superior Court shall be disclosed other than the petition and any affidavits filed therewith in the superior court for juvenile matters, except upon an order of a judge of the Superior Court for good cause shown. The commissioner shall also disclose the name of any individual who cooperates with an investigation of a report of child abuse or neglect to such law enforcement agency or state's attorney for purposes of investigating or prosecuting an allegation of child abuse or neglect. The commissioner or the commissioner's designee shall, upon request, promptly provide copies of records, without the consent of the person, to (A) the Department of Public Health for the purpose of determining the suitability of a person to care for children in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social Services for determining the suitability of a person for any payment from the department for providing child care.''

[4] In this connection, the majority also asserts that ''the plaintiff has assumed the care of three children who are not her own, underscoring the reasonable possibility that she will become a foster parent in the future.'' There are two fatal flaws in this overbroad assertion. First, the ''three children who are not her own'' also happen to be the half siblings of her niece, for all of whom she assumed the care at the same time, in an obvious and laudable effort to keep at least part of the mother's biological family together. There is not a shred of evidence, or any indication, in this record to suggest that she is a candidate to be a special foster care licensee for other, totally unrelated children. Second, she is not, and never has been, a ''foster parent.'' She has only been a special study foster parent licensee, a status that, as the majority notes, occurs typically ''when a parent of a child committed to the custody of the department requests that a specific individual, who is not licensed to provide general foster care, provide foster care to his or her child.'' There is nothing in this record to suggest anyone else who will make such a request.

[5] Of course, we do not even know the age of the mother, or her current childbearing ability. We do know, however, that she has one son, E, who is now almost nineteen years old, and we also know that she has had three other children, ages unknown, who may be even older than E. The majority is nonetheless willing to assume, as an underpinning of its reasonable possibility analysis, that she will bear a child in the future.

[6] In this connection, the majority asserts ''that if the commissioner [of the department] has no intention of ever using the record to the plaintiff's detriment, the commissioner easily could have resolved this matter at any stage in the proceedings, throughout this lengthy appellate process, by vacating the revocation decision voluntarily.'' In my view, this is a grossly unfair argument by the majority. First, as a factual matter, until this statement by the majority, no one—least of all the plaintiff herself—has ever suggested that the commissioner do so. Indeed, there has been no indication by the plaintiff, as opposed to the majority, that such an action by the commissioner would have satisfied the plaintiff so that *she* would then have accepted a mootness determination. Second, as a matter of law, this court has never—until now—suggested that, in order for an administrative action, which was presumptively valid when taken but that was mooted by subsequent events, should be voluntarily vacated simply to avoid a legal claim that the collateral consequences exception applies so as to avoid mootness. Third, does the majority mean to suggest that, had the commissioner taken such an extraordinary and unrequested action, the majority would be prepared to reach a different result? If so, then it should say so, and now that the issue has been raised, give both parties the opportunity to brief their respective views on such an unprecedented question. If not, then I fail to see the relevance of the assertion.

[7] As previously stated, the department voluntarily withdrew its petition to terminate the parental rights of S's father in 1996. This alone, however, does not suggest that, at some future time, S's father will seek to assert his parental rights by way of litigation. The only *possible* legal proceeding he could initiate in this regard would be a petition to revoke the plaintiff's guardianship of S. The department's records reveal that, as of March, 1999, its plan with respect to S was reunification with her father, to be completed within a six month period. Notably absent from such records, however, is any reference to the plaintiff's guardianship as an obstacle to reunification,

or to the initiation or pendency of proceedings to transfer legal guardianship back to S's father. There is also no indication that reunification was actually effectuated. Given S's father's history of minimal contact with his daughter and minimal involvement in her actual upbringing, it is not unreasonable to speculate that the department's plan for reunification was never consummated, rendering the chances of litigation surrounding S's best interests even more speculative. In the event, however, that such litigation does come to pass, disclosure of the plaintiff's special foster care license revocation would be unlikely unless the plaintiff contested the matter. Even if we are to assume, without deciding, that the plaintiff would oppose a petition to revoke her guardianship of S, and that her license revocation would be disclosed as part of those proceedings, there is no reasonable possibility that such disclosure would be harmful. As stated in the text of this opinion, any negative reputational harm or harm to the plaintiff's legal position that may arise from disclosure of the revocation in this context would, undoubtedly, be offset by the fact that: (1) the Probate Court concluded that the plaintiff was a suitable parental substitute for S's father despite the revocation and, accordingly, that court appointed her the legal guardian of S; and (2) the department supported the plaintiff's petition for guardianship irrespective of the revocation. Thus, in my view, there is no reasonable possibility of disclosure of the revocation or its alleged, attendant harm on these facts.