IN RE EMONI W. ET AL.*
(SC 18841)

Rogers, C. J., and Norcott, Palmer, Zarella, McLachlan, Eveleigh and Harper, Js.

*Argued March 16—officially released July 19, 2012***

Don M. Hodgdon, for the appellant (respondent father).

Tammy Nguyen-O'Dowd, assistant attorney general, with whom, on the brief, were *George Jepsen*, attorney general, *Gregory T. D'Auria*, solicitor general, and *Benjamin Zivyon*, assistant attorney general, for the appellee (petitioner).

Christine Perra Rapillo, *Annette R. Appell* and *Josh Gupta-Kagan* filed a brief for the Center for Children's Advocacy, Inc., et al., as amici curiae.

Opinion

ROGERS, C. J. The primary issue in this case is whether the Interstate Compact on the Placement of Children (compact), General Statutes § 17a-175,[1] applies to the placement of children with an out-of-state noncustodial parent. The respondent father[2] and his minor children, Emoni W. and Marlon W. (children), appealed to the Appellate Court from the ruling of the trial court that the compact applied to the placement of the children with the respondent, even though he was the children's noncustodial parent. Thereafter, the trial court awarded physical custody of the children to the respondent. A majority of the Appellate Court concluded that the appeals were moot and, accordingly, dismissed them for lack of subject matter jurisdiction. *In re Emoni W.*, 129 Conn. App. 727, 736, 21 A.3d 524 (2011). This court then granted the respondent's petition for certification to appeal to this court, limited to the following issues: (1) "Did the Appellate Court properly dismiss the appeal as moot?"; and (2) "If the answer to the first question is in the negative, does . . . § 17a-175 apply to an out-of-state, noncustodial parent?" *In re Emoni W.*, 302 Conn. 917, 27 A.3d 369 (2011). We conclude that the respondent's appeal is moot, but falls within the "capable of repetition, yet evading review" exception to the mootness doctrine. Accordingly, we conclude that the Appellate Court improperly dismissed the appeal. We further conclude that the trial court improperly determined that § 17a-175 applies to out-of-state, noncustodial parents.

The Appellate Court's majority opinion sets forth the following facts and procedural history. "The petitioner, the commissioner of children and families, became involved with the children because on April 28 and May 19, 2010, their mother failed to provide adequate supervision of them. On July 9, 2010, the mother was arrested and charged with four counts of risk of injury to a child, possession of crack cocaine with intent to sell, possession of marijuana with intent to sell, possession of a hallucinogenic with intent to sell and operating a drug factory. Also on July 9, 2010, the children were removed from the mother's home under a ninety-six hour hold pursuant to General Statutes § 17a-101g.

"On July 12, 2010, the court granted the petitioner's ex parte motions for orders of temporary custody as to the children. On this date, the petitioner, for the first time, became aware of the respondent. The petitioner learned that the respondent was living in Pennsylvania and that he previously had been responsible for the children's care for extended periods of time during school holidays. The petitioner also became aware that the respondent wanted to have the children live with him after their mother had been arrested.

"On July 16, 2010, a preliminary hearing was held

concerning the petitioner's orders [of] temporary custody. At this hearing, the respondent argued that § 17a-175 did not apply to him as a noncustodial parent and requested that the court allow him to take custody of the children. The court did not rule in response to the respondent's request but, instead, scheduled oral argument on the issue of whether § 17a-175 applied to an out-of-state, noncustodial parent. [The court also ordered the petitioner to initiate a study pursuant to the compact to determine if a proposed placement with the respondent in Pennsylvania would be contrary to the interests of the children.] On July 23, 2010, the court concluded that § 17a-175 does apply to the placement of children with out-of-state, noncustodial parents. The children and the respondent filed separate appeals from this decision on July 30 and August 5, 2010, respectively.

"At a hearing on September 16, 2010, the [trial] court reported that it received the results of the compact study, authorizing placement of the children with the respondent in Pennsylvania on the condition that the court order six months of protective supervision. On this same date, the court adjudicated the children neglected and granted joint legal custody of the children to the respondent and the mother with physical custody in the respondent. The court also ordered protective supervision for a period of six months with the respondent. At the time of oral argument in [the Appellate Court], the children were living with the respondent." *In re Emoni W.*, supra, 129 Conn. App. 729–31.

After the trial court awarded physical custody of the children to the respondent, the Appellate Court, sua sponte, ordered the parties to submit supplemental briefs addressing whether the claims raised by the respondent and the children in their appeals were moot and, if so, whether they fell within the "capable of repetition, yet evading review" exception to the mootness doctrine. Id., 731. The majority of the Appellate Court ultimately concluded that the claims were moot and that they did not fall within that exception to the mootness doctrine because there was not a "strong likelihood that the inherently limited duration of the action will cause a substantial majority of cases raising the same issue to become moot prior to final appellate resolution."[3] (Internal quotation marks omitted.) Id., 735. Accordingly, the Appellate Court dismissed the appeals for lack of subject matter jurisdiction. Id., 736.

Thereafter, the respondent brought this certified appeal claiming that: (1) the majority of the Appellate Court improperly determined that his appeal did not fall within the "capable of repetition, yet evading review" exception to the mootness doctrine; and (2) the trial court improperly determined that § 17a-175 applies to out-of-state noncustodial parents.[4]

I

We first address the respondent's claim that the majority of the Appellate Court improperly determined that his appeal did not fall within the "capable of repetition, yet evading review" exception to the mootness doctrine. We agree with the respondent.

"Our cases reveal that for an otherwise moot question to qualify for review under the 'capable of repetition, yet evading review' exception, it must meet three requirements. First, the challenged action, or the effect of the challenged action, by its very nature must be of a limited duration so that there is a strong likelihood that the substantial majority of cases raising a question about its validity will become moot before appellate litigation can be concluded. Second, there must be a reasonable likelihood that the question presented in the pending case will arise again in the future, and that it will affect either the same complaining party or a reasonably identifiable group for whom that party can be said to act as surrogate. Third, the question must have some public importance. Unless all three requirements are met, the appeal must be dismissed as moot." *Loisel* v. *Rowe*, 233 Conn. 370, 382–83, 660 A.2d 323 (1995).

In the present case, there is no dispute that the second and third prongs of this test have been satisfied. The dispute is over whether, in the substantial majority of cases, the claims that, (1) § 17a-175 does not apply to out-of-state parents, and (2) if it does, the statute is unconstitutional, will evade review because those claims will become moot before the appeal is concluded. The Appellate Court concluded that the statutory question will not evade review because "the receiving state disapproves of the placement of a child with the noncustodial parent almost half of the time that a compact study is requested. In these situations where placement is denied, any order by the court applying § 17a-175 to out-of-state, noncustodial parents will *not* become moot." (Emphasis in original.) *In re Emoni W.*, supra, 129 Conn. App. 735.

We agree with the Appellate Court that the statutory question of whether § 17a-175 applies to out-of-state parents does not meet the "evading review" requirement because a substantial number of cases in which that issue arises, namely, those in which the placement is *denied*, will not become moot before the appeal can be concluded. We also conclude, however, that the constitutional claim raised by the respondent in the present case meets this requirement. Specifically, the respondent claims that, when the placement of a child with a parent is *approved* pursuant to the recommendation of a compact study, the application of § 17a-175 to the parent violates substantive due process principles by interfering with the parent-child relationship during the period between the date that the study was ordered and the date that placement is approved, which is a

more protracted period than it would be if the petitioner conducted an investigation into parental fitness.[5] If this court were to hear an appeal in a case in which placement was *denied* on the basis of a study ordered pursuant to § 17a-175, the court could conclude that the statute applies, and it also could address any claim that the statute violates procedural due process principles because, for example, it does not provide any opportunity for judicial review of the compact study. The court would not be able, however, to reach the substantive due process claim raised by the respondent in the present case, namely, that his right to act as a parent was unduly delayed, because that claim could not be raised by a parent who *never* obtains custody of the child because placement has been denied altogether.[6] In other words, the respondent's due process claim is based on the delay in being able to parent his children because of the time that it takes to conduct the compact study before approval, and a parent who is denied custody altogether would not be able to make such a claim because the placement is denied, not delayed.

The record reveals that, in the last six years, there have been 180 cases in which compact studies were ordered and placement with the parent was approved. In 148 of those cases, or 82 percent, approvals were made within 135 days after the study was ordered, which is a conservative estimate of the time required to prepare an appeal for oral argument. Accordingly, we conclude that the respondent's substantive due process claim meets the "evading review" requirement because it will become moot in the "substantial majority" of those cases in which it can be raised, and resolution of the statutory interpretation claim is a necessary prerequisite to our resolution of the constitutional claim. See *Loisel* v. *Rowe*, supra, 233 Conn. 382 (claim meets "evading review" requirement if "the effect of the challenged action, by its very nature [is] of a limited duration so that there is a strong likelihood that the substantial majority of cases raising a question about its validity will become moot before appellate litigation can be concluded").

II

We turn, therefore, to the respondent's claim that § 17a-175 does not apply to out-of-state noncustodial parents. We agree.

Whether § 17a-175 applies to out-of-state noncustodial parents is a question of statutory interpretation subject to plenary review. See *State ex rel. Gregan* v. *Koczur*, 287 Conn. 145, 152, 947 A.2d 282 (2008). "In making such determinations, we are guided by fundamental principles of statutory construction. See General Statutes § 1-2z;[7] *Testa* v. *Geressy*, 286 Conn. 291, 308, 943 A.2d 1075 (2008) ([o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature . . .)." (Internal quotation marks omitted.)

In re Matthew F., 297 Conn. 673, 688, 4 A.3d 248 (2010).

"We recognize that terms in a statute are to be assigned their ordinary meaning, unless context dictates otherwise . . . ." (Internal quotation marks omitted.) *Wiseman* v. *Armstrong*, 295 Conn. 94, 100, 989 A.2d 1027 (2010); see also General Statutes § 1-1 (a) ("[i]n the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language"). In addition, "[w]e often have stated that, when the ordinary meaning [of a word or phrase] leaves no room for ambiguity . . . the mere fact that the parties advance different interpretations of the language in question does not necessitate a conclusion that the language is ambiguous." (Internal quotation marks omitted.) *Picco* v. *Voluntown*, 295 Conn. 141, 150, 989 A.2d 593 (2010).

We begin our analysis with the language of the statute. Section 17a-175, article III (a), provides in relevant part: "No sending state shall send, bring, or cause to be sent or brought into any other party state any child *for placement in foster care or as a preliminary to a possible adoption* unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state . . . ." (Emphasis added.)

We conclude that the ordinary meaning of the phrase "for placement in foster care or as a preliminary to a possible adoption" as used in § 17a-175, article III (a), does not encompass placement with a noncustodial parent.[8] Children in the care of their own parents are not in "foster care" in any ordinary sense of that phrase, and parents are not required to adopt their own children.

In support of the claim that, contrary to our conclusion, article III (a) of the compact does apply to out-of-state parents, the petitioner contends that: (1) our interpretation is inconsistent with the purpose of § 17a-175, which is to provide each child requiring placement with "the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care"; General Statutes § 17a-175, article I (a); (2) considered in the context of the entire statute, the phrase "placement in foster care" encompasses *any* placement by a court; (3) our interpretation is inconsistent with § 17a-175, article VIII; and (4) our interpretation is inconsistent with the relevant regulations.

We first address the petitioner's claim that our conclusion that § 17a-175 does not apply to out-of-state noncustodial parents is inconsistent with the overall purpose of the statute. Although we agree that, in light of the compact's goal of ensuring the placement of a child in a suitable environment, the drafters reasonably

could have applied the compact to out-of-state parents, nothing in the express language of § 17a-175 indicates that that is what they actually did. Moreover, it is reasonable to conclude that the drafters determined that the statute should not be applied to out-of-state parents in light of the constitutionally based presumptions that parents generally are fit and that their decisions are in the child's best interests. See *Fish* v. *Fish*, 285 Conn. 24, 44, 939 A.2d 1040 (2008) ("in light of the presumption of parental fitness . . . parents should not be faced with unjustified intrusions into their decision-making" [internal quotation marks omitted]); *DiGiovanna* v. *St. George*, 300 Conn. 59, 70–71, 12 A.3d 900 (2011) ("courts must presume that fit parents act in the best interests of their children, and that so long as a parent adequately cares for his or her children [i.e., is fit], there will normally be no reason for the [s]tate to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children" [internal quotation marks omitted]). Also, as we discuss more fully later in this opinion, the petitioner has the authority and the responsibility to investigate whether the placement of a particular child with an out-of-state parent would be consistent with the public policy goals underlying the compact when the child is under the petitioner's care and supervision and there is evidence rebutting the presumption of fitness. Accordingly, we reject this claim.

We next address the petitioner's argument that, considered in the context of the entire statute, the phrase "placement in foster care" was clearly intended to encompass *any* placement by the court. In support of this argument, the petitioner points to article I (a) of § 17a-175, which provides that "[e]ach child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with *persons* or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care." (Emphasis added.) The petitioner argues that, as used in article I (a), "persons" includes parents. As we have indicated, however, the language of § 17a-175, article III (a), plainly and unambiguously limits the application of that article to "placement in foster care or as a preliminary to a possible adoption . . . ." As we also have suggested, it is reasonable to conclude that this limitation is premised on the notion that parents are presumed to be able to provide a "suitable environment" for their children and to have "appropriate qualifications and facilities" for raising them. General Statutes § 17a-175, article I (a). If the drafters had intended § 17a-175, article III, to apply to placements with *all* "persons," including parents, they easily could have used that language in that article.

The petitioner also relies on article V of § 17a-175, which provides that the "sending agency" retains juris-

diction over children who have been placed pursuant to the statute until certain events occur.[9] As we have indicated, however, there is nothing in the language of § 17a-175 that suggests that the "sending agency" is authorized to apply the provisions of the compact to an out-of-state parent in the first instance. Moreover, it is apparent that the provisions of § 17a-175, article V, were designed to apply to cases in which a child is in foster care or is going to be adopted. For example, it seems highly unlikely that the drafters would have intended that agencies, like the petitioner in the present case, would "continue to have financial responsibility for support and maintenance of the child during the period of the placement" when a parent obtains custody of the child. Finally, although the petitioner does not have jurisdiction over an out-of-state parent *under the compact*, as we more fully discuss later in this opinion, when a child is under the care and supervision of the petitioner based on allegations of parental neglect, the petitioner has the authority to investigate the fitness of an out-of-state parent, to retain custody of or supervision over the child during the investigation, and to request conditions on the parent's custody, including protective supervision by the petitioner or by the analogous agency in the receiving state. See footnote 13 of this opinion. Accordingly, the petitioner necessarily has the power to maintain jurisdiction over the child sufficient to ensure compliance with any conditions. We therefore reject this claim.

We also reject the petitioner's claim that our interpretation of § 17a-175, article III (a), somehow renders article VIII (a)[10] of the statute superfluous. The petitioner appears to contend that, because article VIII (a) exempts from the operation of the statute parents and other expressly enumerated persons, not including the petitioner, who leave a child with certain other enumerated persons, including parents, in a receiving state, our interpretation that § 17a-175 *never* applies when a child is being placed with a parent swallows this exemption. Article VIII (a) still provides an exemption, however, whenever a parent or other enumerated person leaves a child with a person who is *not* a parent and who otherwise would be characterized as a foster parent subject to the provisions of the statute. Accordingly, our interpretation of § 17a-175 does not render article VIII superfluous.

We next address the petitioner's contention that our interpretation is inconsistent with the regulations that implement the compact. Article VII of § 17a-175 provides in relevant part that "[t]he executive head of each jurisdiction party to this compact shall designate an officer who . . . acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact." Pursuant to this provision, the Association of Administrators of the

Interstate Compact on the Placement of Children (association) promulgated a regulation that provides in relevant part: "[I]f [twenty-four] hour a day care is provided by the child's parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship), the care is foster care." Association of Administrators of the Interstate Compact on the Placement of Children Regulation 3 (5) (June 2010). Regulation 3 (6) (b) of the association's regulations provides: "The [c]ompact does not apply whenever a court transfers the child to a non-custodial parent with respect to whom the court does not have evidence before it that such parent is unfit, does not seek such evidence, and does not retain jurisdiction over the child after the court transfers the child."

Even if we were to assume, however, that the association's regulations generally have the force of law,[11] we agree with Judge Bishop's argument in his dissenting opinion that association regulation 3 (5) and (6) (b) are invalid because they impermissibly expand the scope of article III of § 17a-175. See *In re Emoni W.*, supra, 129 Conn. App. 742–43 (*Bishop, J.*, dissenting); *Giglio* v. *American Economy Ins. Co.*, 278 Conn. 794, 806–807, 900 A.2d 27 (2006) ("regulations are presumed valid and, *unless they are shown to be inconsistent with the authorizing statute*, they have the force and effect of a statute" [emphasis added; internal quotation marks omitted]); see also *McComb* v. *Wambaugh*, 934 F.2d 474, 481 (3d Cir. 1991) (applicable version of association regulation 3 is "of no effect" because it is inconsistent with article III of compact).

Finally, it is essential to note that both the respondent and the petitioner agree that, if a child is in the custody of the petitioner, an out-of-state parent must appear at the preliminary hearing concerning the placement of the child, answer questions and agree to reasonable conditions on the placement of the child with the parent. Moreover, when there is evidence before the court that an out-of-state noncustodial parent is unfit, the parties agree that the court should not place a child with the parent without ordering an investigation into the parent's fitness. They disagree only about whether the petitioner can conduct that investigation or, instead, the analogous agency in the receiving state must conduct it pursuant to § 17a-175. At oral argument before this court, the petitioner conceded that she has the authority and the ability to conduct an investigation of an out-of-state parent, although she might encounter difficulties that would not be present in cases in which she investigates a parent who is living in state.[12] Indeed, our statutes provide a panoply of procedures to ensure that a child under the care and supervision of the petitioner is not placed in the custody of an unfit parent and that, if a parent is granted custody, there can be continued protective supervision.[13] Accordingly, our conclusion in the present case that § 17a-175 does not

apply to out-of-state parents does not leave the trial court or the petitioner without a remedy when faced with evidence that an out-of-state parent is unfit.

The judgment of the Appellate Court is reversed and the case is remanded to that court with direction to sustain the respondent father's appeal, and to remand the case to the trial court with direction to reverse the judgment determining that § 17a-175 applies to the respondent.

In this opinion NORCOTT, PALMER, EVELEIGH and HARPER, Js., concurred.

* In accordance with the spirit and intent of General Statutes § 46b-142 (b) and Practice Book § 79-3, the names of the parties involved in this appeal are not disclosed. The records and papers of this case shall be open for inspection only to persons having a proper interest therein and upon order of the Appellate Court.

** July 19, 2012, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

[1] General Statutes § 17a-175, article III, provides in relevant part: "(a) No sending state shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state. . . .

"(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child."

[2] The mother of the minor children did not appeal in the Appellate Court, nor has she filed an appeal in this court. We therefore refer herein to the respondent father as the respondent.

[3] In his dissenting opinion, Judge Bishop concluded that the respondent's claim fell within the "capable of repetition, yet evading review" exception to the mootness doctrine; *In re Emoni W.*, supra, 129 Conn. App. 738; and that the compact does not apply to out-of-state, noncustodial parents. Id., 745 (*Bishop, J.*, dissenting).

[4] The respondent also claimed that, as applied to him, the compact violated his substantive and procedural due process rights. In light of our conclusion that the compact does not apply to out-of-state parents, we need not address these claims.

[5] The dissent states that there is no "meaningful difference between a substantive due process claim predicated on an outright denial of the right to parent one's child and the same constitutional claim predicated on a delay in exercising that right." It also states that "[t]he basis for the parent's substantive due process claim would be that the application of the compact to him unconstitutionally prevented the parent from exercising his fundamental right to parent his child." The *only* substantive due process claim that has been raised in the present case, however, is the respondent's claim regarding the unduly extended time period required to conduct a compact study before placement with the parent is *approved*. If placement is ultimately *denied*, a parent cannot complain that he or she was unconstitutionally deprived of custody during the period in which the compact study was conducted.

Contrary to the dissent's suggestion, although any statute that permits the state to obtain custody of a child necessarily interferes with a parent's right to parent a child, that right is not absolute and, accordingly, such interference does not, ipso facto, give rise to a substantive due process claim. Rather, there must be a specific claim of *undue* interference. The respondent has conceded that the department was authorized to conduct an investigation to ensure that he was a fit parent and that such an investigation would have been constitutional, and the dissent has identified no theory under which a parent who otherwise would have been granted custody would be denied custody under compact procedures. In any event, such a claim would not be the *same* substantive due process claim that the respondent has raised in the present case.

[6] Of course, if this court were to conclude in an appeal brought by an

out-of-state parent who has been denied custody under the procedures provided by § 17a-175 that, as a matter of statutory interpretation, the statute does *not* apply to out-of-state parents, that conclusion would dispose of *all* claims that the statute is unconstitutional as applied to such parents. Contrary to the dissent's suggestion, however, we cannot dispose of the jurisdictional question in the present case by assuming a particular outcome on the merits in another case. Because we simply cannot know whether the constitutional question raised in the present case will evade review until we conduct the statutory analysis, it is necessary to conduct that analysis in this case.

[7] General Statutes § 1-2z provides: "The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered."

[8] Courts in other jurisdictions also have reached this conclusion. See *McComb* v. *Wambaugh*, 934 F.2d 474, 480 (3d Cir. 1991) (plain language of compact "applies only to substitutes for parental care such as foster care or arrangements preliminary to adoption," not to parents); *Dept. of Human Services* v. *Huff*, 347 Ark. 553, 562, 65 S.W.3d 880 (2002) ("subsection [a] of [a]rticle III of the compact makes it clear that it is meant to deal with children who are sent from a sending state into a receiving state for placement in foster care or as a preliminary to a possible adoption," not placement with natural parent [internal quotation marks omitted]); *Tara S.* v. *Superior Court*, 13 Cal. App. 4th 1834, 1837, 17 Cal. Rptr. 2d 315 (1993) ("article [III] . . . limits the [compact] to foster care and possible adoption—neither of which would involve natural parents"); *In re Alexis O.*, 157 N.H. 781, 787, 959 A.2d 176 (2008) (article III [a] of compact "carefully restricts the reach of the [compact] to foster care or dispositions preliminary to adoption" and does not apply to natural parents); *In re Rholetter*, 162 N.C. App. 653, 664, 592 S.E.2d 237 (2004) (article III [a] of compact plainly and unambiguously applies only to placements in foster care or preliminary to possible adoption, not to natural parent).

The petitioner points out that a number of courts have determined that, contrary to our conclusion, the compact applies to out-of-state parents. See *D.S.S.* v. *Dept. of Human Resources*, 755 So. 2d 584, 590 (Ala. Civ. App. 1999) (compact prevented transfer of children to out-of-state father without state approval); *Dept. of Economic Security* v. *Leonardo*, 200 Ariz. 74, 83, 22 P.3d 513 (App. 2001) (Regulation 3, promulgated by Association of Administrators of Interstate Compact on Placement of Children [association regulation 3] renders compact "applicable to placement with parents whose rights have been terminated or diminished"); *Green* v. *Division of Family Services*, 864 A.2d 921, 927–28 (Del. 2004) (compact applied to out-of-state natural custodial parents seeking custody of their children); *Dept. of Children & Families* v. *Benway*, 745 So. 2d 437, 439 (Fla. App. 1999) (compact applied to placement of child with natural, nonresident parent); *In re Custody of Quincy*, 29 Mass. App. 981, 982, 562 N.E.2d 94 (1990) (stating in dictum that compact applies to out-of-state parents); *K.D.G.L.B.P.* v. *Dept. of Human Services*, 771 So. 2d 907, 913 (Miss. 2000) (pursuant to compact, Mississippi child welfare agency "is prohibited from placing the children back in the mother's home [in Florida] without the approval of the state"); *State ex rel. Juvenile Dept.* v. *Smith*, 107 Or. App. 129, 132 n.4, 811 P.2d 145 (1991) (stating in dictum that compact applies to out-of-state parents). For the reasons stated in this opinion, we find these cases unpersuasive. In addition, we note that, in one of these cases, the court appears to have concluded that association regulation 3 limits the application of the compact to out-of-state parents whose rights have been " 'diminished or severed by the action or order of any [c]ourt.' " *Dept. of Economic Security* v. *Leonardo*, supra, 79. In support of this conclusion, the court relied on association regulation 3 (3), which made the compact inapplicable to parents whose full legal right to plan for a child has been established by law at a time prior to initiation of the placement in foster care. Id. The version of association regulation 3 relied on by the department in the present case does not contain that language in subsection (3), but subsection (6) (a) (2) contains language identical to that quoted by the Arizona Court of Appeals. See Association of Administrators of the Interstate Compact on the Placement of Children Regulation 3 (6) (a) (2) (June 2010). (The association regulations subsequently were amended, effective October 1, 2011, and the "diminished or severed" language is now codified in regulation [3] [3] [c]). That subsection,

however, applies only to actions taken by a parent or other enumerated relatives, or the child's guardian, that fall within the exemption to the compact set forth in article VIII of the compact. See footnote 10 of this opinion. It does not apply to placements by the court. Accordingly, *Leonardo* has little persuasive value. Even if the court's analysis in *Leonardo* is correct under the version of the association regulations at issue in that case, the case does not support the proposition that the compact applies to parents whose parental rights have *not* been diminished or terminated by court order. We emphasize that we express no opinion here as to whether the compact applies to placements by a court with a parent whose parental rights have been diminished or terminated by a court.

[9] General Statutes § 17a-175, article V (a), provides: " The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein."

[10] General Statutes § 17a-175, article VIII, provides in relevant part: "This compact shall not apply to:

"(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state. . . ."

[11] The respondent argues that the association's regulation is invalid because the petitioner did not comply with General Statutes § 4-167 (b) ("No agency regulation is enforceable against any person or party, nor may it be invoked by the agency for any purpose, until (1) it has been made available for public inspection . . . and (2) the regulation or a notice of the adoption of the regulation has been published . . . . This provision is not applicable in favor of any person or party who has actual notice or knowledge thereof."). We need not address this claim because we conclude that, even if the regulation has the force of law, it is inconsistent with § 17a-175 in this context.

[12] Indeed, such a procedure is contemplated by the current revision of the association's regulations. See Association of Administrators of the Interstate Compact on the Placement of Children Regulation 3 (3) (b) (October 2011) ("[w]hen a sending court/agency seeks an independent [not compact related] courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the 'courtesy check' rests directly with the sending court/agency and the person or party in the receiving state who agree to conduct the 'courtesy' check without invoking the protection of the [compact] home study process"), available at http://icpc.aphsa.org/Home/Doc/ICPC-Regulation3-Sept2011.pdf (last visited July 19, 2012) (copy contained in the file of this case in the Supreme Court clerk's office). The current association regulations define "courtesy check" as a "[p]rocess that does not involve the [compact], used by a sending court to check the home of a parent from whom the child was not removed." Id., Regulation 3 (4) (19).

[13] See General Statutes § 17a-90 (a) ("[t]he Commissioner of Children and Families shall have general supervision over the welfare of children who require the care and protection of the state"); General Statutes § 17a-90 (f) ("[w]henever required to do so by the Superior Court, the Commissioner of Children and Families shall provide protective supervision to children"); General Statutes § 17a-90 (g) ("[t]he Commissioner of Children and Families may make reciprocal agreements with other states and with agencies outside the state in matters relating to the supervision of the welfare of children"); General Statutes § 46b-129 (c) (6) (When a neglect petition has been filed, the court must hold a hearing in order to "make any interim orders, including visitation, that the court determines are in the best interests of the child or youth. The court, after a hearing pursuant to this subsection, shall order specific steps the commissioner and the parent or guardian shall take for the parent or guardian to regain or to retain custody of the child or youth . . . ."); General Statutes § 46b-129 (i) ("When a petition is filed in said

court for the commitment of a child or youth, the Commissioner of Children and Families shall make a thorough investigation of the case . . . . The court after hearing may also order a thorough physical or mental examination, or both, of a parent or guardian whose competency or ability to care for a child or youth before the court is at issue."); General Statutes § 46b-129 (j) ("[a]s an alternative to commitment, the court may place the child or youth in the custody of the parent or guardian with protective supervision by the Commissioner of Children and Families subject to conditions established by the court").