

AN ACT concerning minors.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Juvenile Court Act of 1987 is amended by changing Section 2-18 as follows:

(705 ILCS 405/2-18) (from Ch. 37, par. 802-18)

Sec. 2-18. Evidence.

(1) At the adjudicatory hearing, the court shall first consider only the question whether the minor is abused, neglected or dependent. The standard of proof and the rules of evidence in the nature of civil proceedings in this State are applicable to proceedings under this Article. If the petition also seeks the appointment of a guardian of the person with power to consent to adoption of the minor under Section 2-29, the court may also consider legally admissible evidence at the adjudicatory hearing that one or more grounds of unfitness exists under subdivision D of Section 1 of the Adoption Act.

(2) In any hearing under this Act, the following shall constitute prima facie evidence of abuse or neglect, as the case may be:

(a) proof that a minor has a medical diagnosis of battered child syndrome is prima facie evidence of abuse;

(b) proof that a minor has a medical diagnosis of failure to thrive syndrome is prima facie evidence of neglect;

(c) proof that a minor has a medical diagnosis of fetal alcohol syndrome is prima facie evidence of neglect;

(d) proof that a minor has a medical diagnosis at birth of withdrawal symptoms from narcotics or barbiturates is prima facie evidence of neglect;

(e) proof of injuries sustained by a minor or of the condition of a minor of such a nature as would ordinarily

not be sustained or exist except by reason of the acts or omissions of the parent, custodian or guardian of such minor shall be prima facie evidence of abuse or neglect, as the case may be;

(f) proof that a parent, custodian or guardian of a minor repeatedly used a drug, to the extent that it has or would ordinarily have the effect of producing in the user a substantial state of stupor, unconsciousness, intoxication, hallucination, disorientation or incompetence, or a substantial impairment of judgment, or a substantial manifestation of irrationality, shall be prima facie evidence of neglect;

(g) proof that a parent, custodian, or guardian of a minor repeatedly used a controlled substance, as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, in the presence of the minor or a sibling of the minor is prima facie evidence of neglect. "Repeated use", for the purpose of this subsection, means more than one use of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act;

(h) proof that a newborn infant's blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of those substances, the presence of which is the result of medical treatment administered to the mother or the newborn, is prime facie evidence of neglect;

(i) proof that a minor was present in a structure or vehicle in which the minor's parent, custodian, or guardian was involved in the manufacture of methamphetamine constitutes prima facie evidence of abuse and neglect.

(3) In any hearing under this Act, proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other

minor for whom the respondent is responsible.

(4) (a) Any writing, record, photograph or x-ray of any hospital or public or private agency, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a minor in an abuse, neglect or dependency proceeding, shall be admissible in evidence as proof of that condition, act, transaction, occurrence or event, if the court finds that the document was made in the regular course of the business of the hospital or agency and that it was in the regular course of such business to make it, at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter. A certification by the head or responsible employee of the hospital or agency that the writing, record, photograph or x-ray is the full and complete record of the condition, act, transaction, occurrence or event and that it satisfies the conditions of this paragraph shall be prima facie evidence of the facts contained in such certification. A certification by someone other than the head of the hospital or agency shall be accompanied by a photocopy of a delegation of authority signed by both the head of the hospital or agency and by such other employee. All other circumstances of the making of the memorandum, record, photograph or x-ray, including lack of personal knowledge of the maker, may be proved to affect the weight to be accorded such evidence, but shall not affect its admissibility.

(b) Any indicated report filed pursuant to the Abused and Neglected Child Reporting Act shall be admissible in evidence.

(c) Previous statements made by the minor relating to any allegations of abuse or neglect shall be admissible in evidence. However, no such statement, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.

(d) There shall be a rebuttable presumption that a minor is competent to testify in abuse or neglect proceedings. The court shall determine how much weight to give to the minor's

testimony, and may allow the minor to testify in chambers with only the court, the court reporter and attorneys for the parties present.

(e) The privileged character of communication between any professional person and patient or client, except privilege between attorney and client, shall not apply to proceedings subject to this Article.

(f) Proof of the impairment of emotional health or impairment of mental or emotional condition as a result of the failure of the respondent to exercise a minimum degree of care toward a minor may include competent opinion or expert testimony, and may include proof that such impairment lessened during a period when the minor was in the care, custody or supervision of a person or agency other than the respondent.

(5) In any hearing under this Act alleging neglect for failure to provide education as required by law under subsection (1) of Section 2-3, proof that a minor under 13 years of age who is subject to compulsory school attendance under the School Code is a chronic truant as defined under the School Code shall be prima facie evidence of neglect by the parent or guardian in any hearing under this Act and proof that a minor who is 13 years of age or older who is subject to compulsory school attendance under the School Code is a chronic truant shall raise a rebuttable presumption of neglect by the parent or guardian. This subsection (5) shall not apply in counties with 2,000,000 or more inhabitants.

(6) In any hearing under this Act, the court may take judicial notice of prior sworn testimony or evidence admitted in prior proceedings involving the same minor if (a) the parties were either represented by counsel at such prior proceedings or the right to counsel was knowingly waived and (b) the taking of judicial notice would not result in admitting hearsay evidence at a hearing where it would otherwise be prohibited.

(Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by P.A. 90-443); 90-608, eff. 6-30-98.)