



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4773

Introduced 1/27/2022, by Rep. Patrick Windhorst

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-18

from Ch. 37, par. 802-18

Amends the Juvenile Court Act of 1987. Concerning any writing, record, photograph, or x-ray of any hospital or public or private agency 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, a certification by a person or persons employed by the hospital or agency that the writing, record, photograph, or x-ray (rather than certification by the head or responsible employee of the hospital or agency) is the full and complete record of the condition, act, transaction, occurrence or event and that it satisfies the conditions of this provision shall be prima facie evidence of the facts contained in such certification. Deletes provision that 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.

LRB102 25214 RLC 34485 b

1 AN ACT concerning courts.

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

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

6 (705 ILCS 405/2-18) (from Ch. 37, par. 802-18)  
7 Sec. 2-18. Evidence.

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

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

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

23 (b) proof that a minor has a medical diagnosis of

1 failure to thrive syndrome is prima facie evidence of  
2 neglect;

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

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

8 (e) proof of injuries sustained by a minor or of the  
9 condition of a minor of such a nature as would ordinarily  
10 not be sustained or exist except by reason of the acts or  
11 omissions of the parent, custodian or guardian of such  
12 minor shall be prima facie evidence of abuse or neglect,  
13 as the case may be;

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

22 (g) proof that a parent, custodian, or guardian of a  
23 minor repeatedly used a controlled substance, as defined  
24 in subsection (f) of Section 102 of the Illinois  
25 Controlled Substances Act, in the presence of the minor or  
26 a sibling of the minor is prima facie evidence of neglect.

1 "Repeated use", for the purpose of this subsection, means  
2 more than one use of a controlled substance as defined in  
3 subsection (f) of Section 102 of the Illinois Controlled  
4 Substances Act;

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

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

18 (j) proof that a parent, custodian, or guardian of a  
19 minor allows, encourages, or requires a minor to perform,  
20 offer, or agree to perform any act of sexual penetration  
21 as defined in Section 11-0.1 of the Criminal Code of 2012  
22 for any money, property, token, object, or article or  
23 anything of value, or any touching or fondling of the sex  
24 organs of one person by another person, for any money,  
25 property, token, object, or article or anything of value,  
26 for the purpose of sexual arousal or gratification,

1 constitutes prima facie evidence of abuse and neglect;

2 (k) proof that a parent, custodian, or guardian of a  
3 minor commits or allows to be committed the offense of  
4 involuntary servitude, involuntary sexual servitude of a  
5 minor, or trafficking in persons as defined in Section  
6 10-9 of the Criminal Code of 1961 or the Criminal Code of  
7 2012, upon such minor, constitutes prima facie evidence of  
8 abuse and neglect.

9 (3) In any hearing under this Act, proof of the abuse,  
10 neglect or dependency of one minor shall be admissible  
11 evidence on the issue of the abuse, neglect or dependency of  
12 any other minor for whom the respondent is responsible.

13 (4) (a) Any writing, record, photograph or x-ray of any  
14 hospital or public or private agency, whether in the form of an  
15 entry in a book or otherwise, made as a memorandum or record of  
16 any condition, act, transaction, occurrence or event relating  
17 to a minor in an abuse, neglect or dependency proceeding,  
18 shall be admissible in evidence as proof of that condition,  
19 act, transaction, occurrence or event, if the court finds that  
20 the document was made in the regular course of the business of  
21 the hospital or agency and that it was in the regular course of  
22 such business to make it, at the time of the act, transaction,  
23 occurrence or event, or within a reasonable time thereafter. A  
24 certification by a person or persons employed by the hospital  
25 or agency ~~the head or responsible employee of the hospital or~~  
26 ~~agency~~ that the writing, record, photograph or x-ray is the

1 full and complete record of the condition, act, transaction,  
2 occurrence or event and that it satisfies the conditions of  
3 this paragraph shall be prima facie evidence of the facts  
4 contained in such certification. ~~A certification by someone~~  
5 ~~other than the head of the hospital or agency shall be~~  
6 ~~accompanied by a photocopy of a delegation of authority signed~~  
7 ~~by both the head of the hospital or agency and by such other~~  
8 ~~employee.~~ All other circumstances of the making of the  
9 memorandum, record, photograph or x-ray, including lack of  
10 personal knowledge of the maker, may be proved to affect the  
11 weight to be accorded such evidence, but shall not affect its  
12 admissibility.

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

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

20 (d) There shall be a rebuttable presumption that a minor  
21 is competent to testify in abuse or neglect proceedings. The  
22 court shall determine how much weight to give to the minor's  
23 testimony, and may allow the minor to testify in chambers with  
24 only the court, the court reporter and attorneys for the  
25 parties present.

26 (e) The privileged character of communication between any

1 professional person and patient or client, except privilege  
2 between attorney and client, shall not apply to proceedings  
3 subject to this Article.

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

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

23 (6) In any hearing under this Act, the court may take  
24 judicial notice of prior sworn testimony or evidence admitted  
25 in prior proceedings involving the same minor if (a) the  
26 parties were either represented by counsel at such prior

1 proceedings or the right to counsel was knowingly waived and  
2 (b) the taking of judicial notice would not result in  
3 admitting hearsay evidence at a hearing where it would  
4 otherwise be prohibited.

5 (Source: P.A. 96-1464, eff. 8-20-10; 97-897, eff. 1-1-13;  
6 97-1150, eff. 1-25-13.)