



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by Chapin Rose

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-18

from Ch. 37, par. 802-18

Amends the Juvenile Court Act of 1987. Provides that 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.

LRB093 21262 RLC 47412 b

1 AN ACT concerning minors.

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
24 failure to thrive syndrome is prima facie evidence of
25 neglect;

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

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

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

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

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

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

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

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

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

1 minor for whom the respondent is responsible.

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

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

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

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

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

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

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

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

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

35 (Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by P.A.
36 90-443); 90-608, eff. 6-30-98.)