



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**SB2447**

Introduced 2/3/2004, by Dale A. Righter

**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 18520 RLC 44240 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.)