



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1434

Introduced 1/31/2023, 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. Makes changes concerning the admissibility of hospital or public or private agency records in an adjudicatory hearing concerning an abused, neglected, or dependent minor. Requires the court to find that the document was made in the regular course of the business of the hospital or agency (instead of 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). Provides that a certification by an agent (in addition to the head or s responsible employee) of the hospital or agency attesting that a record satisfies specified conditions shall be prima facie evidence of the facts contained in such certification. Deletes language requiring 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.

LRB103 05671 RLC 50690 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 the head or responsible employee or agent of
25 the hospital or agency having knowledge of the creation and
26 maintenance of or of the matters stated in ~~that~~ the writing,

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

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

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

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

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

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

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

24 (6) In any hearing under this Act, the court may take
25 judicial notice of prior sworn testimony or evidence admitted
26 in prior proceedings involving the same minor if (a) the

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

6 (Source: P.A. 96-1464, eff. 8-20-10; 97-897, eff. 1-1-13;
7 97-1150, eff. 1-25-13.)