

HB4626



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4626

by Rep. Robert F. Martwick

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 has a constellation of injuries is prima facie evidence of abuse. Effective immediately.

LRB098 19506 RLC 54681 b

A BILL FOR

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 or has a constellation of injuries
23 is prima facie evidence of abuse;

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

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

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

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

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

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

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

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

14 (i) proof that a minor was present in a structure or
15 vehicle in which the minor's parent, custodian, or guardian
16 was involved in the manufacture of methamphetamine
17 constitutes prima facie evidence of abuse 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 as
21 defined in Section 11-0.1 of the Criminal Code of 2012 for
22 any money, property, token, object, or article or anything
23 of value, or any touching or fondling of the sex organs of
24 one person by another person, for any money, property,
25 token, object, or article or anything of value, for the
26 purpose of sexual arousal or gratification, constitutes

1 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 10-9
6 of the Criminal Code of 1961 or the Criminal Code of 2012,
7 upon such minor, constitutes prima facie evidence of abuse
8 and neglect.

9 (3) In any hearing under this Act, proof of the abuse,
10 neglect or dependency of one minor shall be admissible evidence
11 on the issue of the abuse, neglect or dependency of any other
12 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, shall
18 be admissible in evidence as proof of that condition, act,
19 transaction, occurrence or event, if the court finds that the
20 document was made in the regular course of the business of the
21 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 of the
25 hospital or agency that the writing, record, photograph or
26 x-ray is the full and complete record of the condition, act,

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

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

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

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

25 (e) The privileged character of communication between any
26 professional person and patient or client, except privilege

1 between attorney and client, shall not apply to proceedings
2 subject to this Article.

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

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

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

1 (b) the taking of judicial notice would not result in admitting
2 hearsay evidence at a hearing where it would otherwise be
3 prohibited.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.