

1 AN ACT in relation to the 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
11 of evidence in the nature of civil proceedings in this State
12 are applicable to proceedings under this Article. If the
13 petition also seeks the appointment of a guardian of the
14 person with power to consent to adoption of the minor under
15 Section 2-29, the court may also consider legally admissible
16 evidence at the adjudicatory hearing that one or more grounds
17 of unfitness exists under subdivision D of Section 1 of the
18 Adoption Act.

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

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

24 (b) proof that a minor has a medical diagnosis of
25 failure to thrive syndrome is prima facie evidence of
26 neglect;

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

30 (d) proof that a minor has a medical diagnosis at
31 birth of withdrawal symptoms from narcotics or

1 barbiturates is prima facie evidence of neglect;

2 (e) proof of injuries sustained by a minor or of
3 the condition of a minor of such a nature as would
4 ordinarily not be sustained or exist except by reason of
5 the acts or omissions of the parent, custodian or
6 guardian of such minor shall be prima facie evidence of
7 abuse or neglect, as the case may be;

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

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

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

34 (3) In any hearing under this Act, proof of the abuse,

1 neglect or dependency of one minor shall be admissible
2 evidence on the issue of the abuse, neglect or dependency of
3 any other minor for whom the respondent is responsible.

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

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

33 (c) Previous statements made by the minor relating to
34 any allegations of abuse or neglect shall be admissible in

1 evidence. However, no such statement, if uncorroborated and
2 not subject to cross-examination, shall be sufficient in
3 itself to support a finding of abuse or neglect.

4 (d) There shall be a rebuttable presumption that a minor
5 is competent to testify in abuse or neglect proceedings. The
6 court shall determine how much weight to give to the minor's
7 testimony, and may allow the minor to testify in chambers
8 with only the court, the court reporter and attorneys for the
9 parties present.

10 (e) The privileged character of communication between
11 any professional person and patient or client, except
12 privilege between attorney and client, shall not apply to
13 proceedings subject to this Article.

14 (f) Proof of the impairment of emotional health or
15 impairment of mental or emotional condition as a result of
16 the failure of the respondent to exercise a minimum degree of
17 care toward a minor may include competent opinion or expert
18 testimony, and may include proof that such impairment
19 lessened during a period when the minor was in the care,
20 custody or supervision of a person or agency other than the
21 respondent.

22 (g) A signed, recorded, or videotaped statement relating
23 to the abuse, neglect, or dependency of a minor who is the
24 subject of a petition filed pursuant to this Act made by a
25 non-party who is unavailable for testimony is admissible in
26 evidence in any proceeding under this Article if the
27 statement was, at the time of its making, so far contrary to
28 the declarant's pecuniary or proprietary interest or
29 contained material that would subject the declarant to civil
30 or criminal liability or render invalid a claim by the
31 declarant against another that a reasonable person in the
32 declarant's position would not have made the statement unless
33 he or she believed it to be true.

34 "Unavailable for testimony" includes situations in which

1 the declarant:

2 (i) is exempted by ruling of the court on the
3 ground of privilege from testifying concerning the
4 subject matter of the declarant's statement; or

5 (ii) persists in refusing to testify concerning the
6 subject matter of the declarant's statement despite an
7 order of the court to do so; or

8 (iii) testifies to a lack of memory of the subject
9 matter of the declarant's statement; or

10 (iv) is unable to be present or to testify at the
11 hearing because of death or then existing physical or
12 mental illness or infirmity; or

13 (v) is absent from the hearing and the proponent of
14 statement has been unable to procure the declarant's
15 attendance by process or other reasonable means.

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

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

1 otherwise be prohibited.

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.