

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 122

Introduced by Pansing Brooks, 28.

Read first time January 06, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to families; to define terms; to provide for
- 2 family member visitation petitions as prescribed; to provide for a
- 3 hearing; and to provide for costs and fees as prescribed.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 4 of this act:

2 (1) Adult child means an individual who is at least eighteen years
3 of age and who is related to a resident biologically, through adoption,
4 through the marriage or former marriage of the resident to the biological
5 parent of the adult child, or by a judgment of parentage entered by a
6 court of competent jurisdiction;

7 (2) Family member means the spouse, adult child, adult grandchild,
8 parent, grandparent, or sibling of a resident;

9 (3) Resident means an adult resident of:

10 (a) A health care facility as defined in section 71-413; or

11 (b) Any home or other residential dwelling in which the resident is
12 receiving care and services from any person; and

13 (4) Visitation means an in-person meeting or any telephonic,
14 written, or electronic communication.

15 Sec. 2. (1) It is the intent of the Legislature that, in order to
16 allow family members to remain connected, a caregiver may not arbitrarily
17 deny visitation to a family member of a resident, whether or not the
18 caregiver is related to such family member.

19 (2) If a family member is being denied visitation with a resident,
20 the family member may petition the district court for the county in which
21 the resident resides to compel visitation with the resident. The court
22 may not issue an order compelling visitation if the court finds any of
23 the following:

24 (a) The resident, while having the capacity to evaluate and
25 communicate decisions regarding visitation, expresses a desire to not
26 have visitation with the petitioner; or

27 (b) Visitation between the petitioner and the resident is not in the
28 best interests of the resident.

29 Sec. 3. If the petition filed pursuant to section 2 of this act
30 states that the resident's health is in significant decline or that the
31 resident's death may be imminent, the court shall conduct an emergency

1 hearing on the petition as soon as practicable and in no case later than
2 ten days after the date the petition is filed with the court.

3 Sec. 4. Upon a motion by a party or upon the court's own motion, if
4 the court finds during a hearing pursuant to section 3 of this act that a
5 person is knowingly isolating the resident from visitation by a family
6 member, the court shall order such person to pay court costs and
7 reasonable attorney's fees of the petitioner and may order other
8 appropriate remedies. No costs, fees, or other sanctions may be paid from
9 the resident's finances or estate.