

LEGISLATIVE BILL 122

Approved by the Governor April 27, 2017

Introduced by Pansing Brooks, 28; Baker, 30.

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

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

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

(2) Family member means the spouse, adult child, adult grandchild, parent, grandparent, sibling, aunt, uncle, niece, nephew, cousin, or domestic partner of a resident;

(3) Resident means an adult resident of:

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

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

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

Sec. 2. (1) It is the intent of the Legislature that, in order to allow family members to remain connected, a caregiver may not arbitrarily deny visitation to a family member of a resident, whether or not the caregiver is related to such family member, unless such action is authorized by a nursing home administrator pursuant to section 71-6021.

(2) If a family member is being denied visitation with a resident, the family member may petition the county court to compel visitation with the resident. If the resident has been appointed a guardian under the jurisdiction of a county court in Nebraska, the petition shall be filed in the county court having such jurisdiction. If there is no such guardianship, the petition shall be filed in the county court for the county in which the resident resides. The court may not issue an order compelling visitation if the court finds any of the following:

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

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

Sec. 3. If the petition filed pursuant to section 2 of this act states that the resident's health is in significant decline or that the resident's death may be imminent, the court shall conduct an emergency hearing on the petition as soon as practicable and in no case later than ten days after the date the petition is filed with the court.

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