

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 122**

FINAL READING

Introduced by Pansing Brooks, 28; Baker, 30.

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 nineteen 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, sibling, aunt, uncle, niece, nephew, cousin, or  
9 domestic partner of a resident;

10          (3) Resident means an adult resident of:

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

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

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

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

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

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

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

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

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