

**ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017**  
**COMMITTEE STATEMENT**  
**LB122**

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**Hearing Date:** Thursday February 09, 2017  
**Committee On:** Judiciary  
**Introducer:** Pansing Brooks  
**One Liner:** Provide for family member visitation petitions

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Baker, Chambers, Ebke, Halloran, Hansen, Krist, Morfeld,  
Pansing Brooks

**Nay:**

**Absent:**

**Present Not Voting:**

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**Verbal Testimony:**

**Proponents:**

Senator Patty Pansing Brooks  
Kerri Kasem  
Kelly Rooney  
Kathleen Brawn  
Genenne Didier  
Mark Intermill  
Phyllis Kalbach  
Karey McCauley  
Elizabeth Smith  
Merry Gibson  
Marvel Murphy  
Mary Rose  
Karen Kyle  
Mike Ference  
Bub Windle

**Representing:**

Introducer  
Kasem Cares  
Kasem Cares Foundation  
Kasem Cares Foundation  
self  
AARP  
self  
Kasem Cares  
Kasem Cares  
self  
self  
self  
self  
self  
Nebraska State Bar Association

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 122 prohibits a caregiver of an adult resident of a healthcare facility or an adult resident of any home or other residential dwelling where such resident receives care and services from arbitrarily denying a family member of the resident visitation. The bill applies this prohibition regardless of whether the caregiver is a family member. In the event a family member of a resident is arbitrarily denied visitation, LB 122 would allow the family member to petition the district court for an order compelling visitation. A district court could not enter an order compelling visitation if the resident, having capacity to evaluate and communicate decisions, expresses a desire not to have visitation with the family member or visitation with the family member is not in the best interests of the resident. LB 122 provides that in the event

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the resident's health is in significant decline or their death imminent, the district court shall conduct a hearing on the petition as soon as practical, but no later than ten days after the date of filing. LB 122 further requires that the denying caregiver pay the costs and reasonable attorney fees of the family member filing the petition if the caregiver is found to have been knowingly isolating the resident from visitation.

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**Explanation of amendments:**

AM 223 to LB 122 makes a few minor changes to the original bill.

The amendment changes the definition of an "adult child" under the act from an individual aged 18 who meets the criteria, to an individual who is 19 years of age.

It also expands the list of relatives who may bring an action for visitation to include an "aunt, uncle, niece, nephew, cousin, or domestic partner."

The amendment further recognizes that an action might be brought against a nursing home pursuant to Neb. Rev. Stat. Sec. 71-6021 for denying visitation of a resident of the nursing home under certain circumstances.

Finally, the amendment adjusts the proper venue for an action from filing in district court to filing in county court as the county court typically handles matters similar to that affected by LB 122. The added language also sets the venue in the county in which the person resides or in the county having jurisdiction over a current guardianship case.

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Laura Ebke, Chairperson