

**ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018**  
**COMMITTEE STATEMENT**  
**LB1051**

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**Hearing Date:** Thursday February 22, 2018  
**Committee On:** Judiciary  
**Introducer:** Pansing Brooks  
**One Liner:** Change provisions relating to family member visitation

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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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  
Susan Spahn

**Representing:**

Introducer  
Nebraska State Bar Association

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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

LB 1051 makes adjustments to Nebraska statute regarding family visitation petitions. The bill adds definitions, restructures provisions of the statute, and provides certain procedural requirements to clarify the process for such a petition.

Section 1 of the bill provides definitions for terms that are added to the statute, including caregiver, guardian ad litem, isolation, and visitor.

Section 2 strikes a portion of current Neb. Rev. Stat. 43-1302 for purposes of restructuring the statutes.

Section 3 takes the stricken portions in Section 2 and places them in a separate section. It further provides some things for the court to consider in making a determination about whether to grant a petition for visitation, including the nature of the relationship of the family member, the place where visitation will be exercised, the frequency of visits, the likely effect of visitation, and the likelihood of onerously disrupting the established lifestyle of the resident.

Section 4 of the bill adds provisions for the filing of an emergency petition in the event the resident's health is in significant decline or death may be imminent. The bill would require the submission of a verified information affidavit and would allow the court to issue temporary orders.

Section 5 would allow the court to award the petitioner to pay costs and attorney's fees if the petition is filed and there is no probable cause for doing so. The court would also be authorized to order payment of the fees and costs of a visitor or

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guardian ad litem, and to enter an order prohibiting the petitioner from filing another petition for any period of time up to one year.

Section 6 outlines the information that must be included in a petition.

Sections 7 and 8 add provisions for managing a petition in which a guardianship or conservatorship exists, and allows for the appointment of a guardian ad litem by the court.

Sections 9 and 10 add provisions for jurisdiction, venue, court rules, and appeals.

Section 11 provides that medical evidence may be reviewed in camera to comply with federal law.

Section 12 authorizes the court to enter a visitation order that includes time, place, and manner of visitation, authorizes a contempt proceeding for failure to comply with an order, and allows the court to enter a review or expiration date for a visitation order.

Section 13 clarifies that the burden of proof lies with the petitioner to establish their case by the preponderance of the evidence.

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Laura Ebke, Chairperson