

62A-6-108 Factors to be considered by court -- Evaluations -- Interview -- Findings of fact.

- (1) If the court finds that the subject of sterilization is not capable of giving informed consent, the court shall consider, but not by way of limitation, the following factors concerning that person:
 - (a) the nature and degree of his mental impairment, and the likelihood that the condition is permanent;
 - (b) the level of his understanding regarding the concepts of reproduction and contraception, and whether his ability to understand those concepts is likely to improve;
 - (c) his capability for procreation or reproduction. It is a rebuttable presumption that the ability to procreate and reproduce exists in a person of normal physical development;
 - (d) the potentially injurious physical and psychological effects from sterilization, pregnancy, childbirth, and parenthood;
 - (e) the alternative methods of birth control presently available including, but not limited to, drugs, intrauterine devices, education and training, and the feasibility of one or more of those methods as an alternative to sterilization;
 - (f) the likelihood that he will engage in sexual activity or could be sexually abused or exploited;
 - (g) the method of sterilization that is medically advisable, and least intrusive and destructive of his rights to bodily and psychological integrity;
 - (h) the advisability of postponing sterilization until a later date; and
 - (i) the likelihood that he could adequately care and provide for a child.
- (2) The court may require that independent medical, psychological, and social evaluations of the subject of sterilization be made prior to ruling on a petition for sterilization. The court may appoint experts to perform those examinations and evaluations and may require the petitioner, to the extent of the petitioner's ability, to bear the costs incurred.
- (3) The court shall interview the subject of sterilization to determine his understanding of and desire for sterilization. The expressed preference of the person shall be made a part of the record, and shall be considered by the court in rendering its decision. The court is not bound by the expressed preference of the subject of sterilization; however, if the person expresses a preference not to be sterilized, the court shall deny the petition unless the petitioner proves beyond a reasonable doubt that the person will suffer serious physical or psychological injury if the petition is denied.
- (4) When adjudicating a petition for sterilization the court shall determine, on the basis of all the evidence, what decision regarding sterilization would have been made by the subject of sterilization, if he were capable of giving informed consent to sterilization. The decision regarding sterilization shall be in the best interest of the person to be sterilized.
- (5) If the court grants a petition for sterilization, it shall make appropriate findings of fact in support of its order.

Enacted by Chapter 1, 1988 General Session