5-02/060.00 - Declaration of Unfitness

A juvenile declared unfit for consideration by the juvenile court and ordered tried under the general law if an adult criminal complaint is obtained, shall be prosecuted as an adult, however, he must be:

- 16 years of age or older;
- In violation of any criminal statute or ordinance; and
- Not amenable to the care, treatment, and training program available through the juvenile court.

Unfitness may be considered for any one or a combination of the following factors:

- Degree of criminal sophistication;
- Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction;
- The minor's previous delinquent history;
- Success of previous attempts by the juvenile court to rehabilitate the minor; and/or
- The circumstances and gravity of the offense alleged to have been committed.

Unfitness shall be considered when a minor is a person described in section 602 WIC and charged for any offense enumerated under 707(b) WIC.

The investigator should initiate the request for a fitness hearing in appropriate cases, and should do so by printing on the face page of the petition application, "Request Fitness Hearing."

Under 707(d) WIC a minor who is 16 or 17 may be found unfit for any of the offenses enumerated under section 707(d)(2) WIC. A minor who is at least 14 but not 16 may be found unfit for any offense under section 707(e) WIC.

Unfit minors may be:

- Detained in Juvenile Hall when the juvenile court determines that the safety of the inmates of juvenile hall would not be impaired (707.1 WIC);
- Remanded to the custody of the Sheriff when the juvenile court can make a finding that the safety of the public or the inmates of juvenile hall cannot otherwise be protected (707.1 WIC);
- Released OR (Own Recognizance) when the minor is released by the juvenile court pending the obtaining of the criminal complaint and the issuance of a warrant; and/or
- Continued on bail when the minor is on bail in a case which began in the adult court and was certified to the juvenile court and the juvenile court returned it to the adult court by declaring the minor unfit.