

<p>Milwaukee County Department of Health and Human Services Division of Youth and Family Services</p> <p>POLICY & PROCEDURE</p>	<p>Original Date Issued: 11/01/2020</p> <hr/> <p>Last Revision Date: N/A</p>	<p>Current Review Date: 09/30/2020</p> <p>Current Review By: DB</p>	<p>Section: ON GOING</p>	<p>Policy No: 070</p>	<p>Pages: Page 1 of 4</p>
<p><input checked="" type="checkbox"/> Division of Youth and Family Services (DYFS)</p> <p><input checked="" type="checkbox"/> Detention Center</p> <p><input type="checkbox"/> DYFS Services Network</p> <p><input type="checkbox"/> Purchase of Service Agencies</p>	<p>Current Effective Date: 11/01/2020</p>	<p>Subject: Capias Procedure Policy</p>			

I. Policy

It is the policy of the Division of Youth and Family Services (DYFS) that a Capias (and/or warrant) may be issued by the Court in accordance with 938.28 of Wisconsin State statutes for failure of a youth to appear at a required court hearing when 1) the youth has submitted to the jurisdiction of the court, 2) has been properly summoned as required by 938.27, or 3) pursuant to a finding by the Court that service of a Summons will be ineffectual.

II. Definition

- A. **Delinquency:** Youth is pending adjudication or have been adjudicated by the court under Wis. Statute 938.12.
- B. **Child in Need of Protection Services (CHIPS):** The legal proceeding available to individuals under age 18 who have been victims of parental/caregiver abuse or neglect that provides services to the family to ensure child safety under Wis. Statute 48.13.
- C. **Juvenile in Need of Protection and Services (JIPS):** Youth (age 12-18) who are pending adjudication or have been adjudicated under Wis. Statute 938.13.
- D. **Capias:** A writ order for the apprehension of a person.

III. Procedure – Court Issued Capias

There are specific circumstances where the Court will issue an apprehension/capias request for the youth.

A. Delinquency

1. A Capias **shall** be issued by the court in a delinquency case when the youth has been summons and has yet to appear in court or otherwise submitted to the jurisdiction of the court.
2. The court may “Stay” the execution of the Capias until a new date scheduled, if good cause has been determined.

B. Delinquency, CHIPS and JIPS

1. A Capias **may** be issued by the court when a youth have previously appeared in court or submitted to the jurisdiction of the court but fails to appear for a subsequent hearing.

2. A Capias may also be issued by the court in either a delinquency case, a child in need of protection and service (CHIPS), or a juvenile in need of protection and services (JIPS) case when a youth fails to comply with certain court orders or is reported as a runaway (MISSING from a court ordered placement).

C. Court Issued Capias' – Required Information for Apprehension Request

In order for law enforcement to apprehend and take custody of a youth, the following information must be included in the Apprehension Request when submitting it to the courts:

- ✓ Date of Birth:
- ✓ Sex:
- ✓ Race:
- ✓ Hair Color:
- ✓ Height:
- ✓ Weight:
- ✓ Phone:
- ✓ Other Identifying Characteristics:
- ✓ Statutory charge for the youth and whether it is a felony or a misdemeanor: *List all JV active numbers*
- ✓ Placement if/when youth is apprehended

✚ **NOTE:** The box next to, “*Transport to the Detention Center Pending a Secure Detention Hearing*”, should be checked for youth expected to remain in Secure Detention pending a detention hearing per the court or assigned HSW, or the specified place of transport at the time of apprehension should be noted in the summary.

IV. Procedure – DYFS Requested Capias

There are circumstances where DYFS will request the court to issue a apprehension/capias request for the youth.

A. Court Order Compliance

If DYFS requests the Capias of a youth that has run away from a court-ordered placement or is out of compliance with a court order, PRIOR to submission to the court, the apprehension request must include the following:

- Signature of the HSW
- Signature of the HSW Supervisor
- Signature of the DYFS Section Manager (*or available administrative staff*)

✚ Note: The Commissioner is authorized to sign a Capias.

B. Missing Youth (*In the Community-Whereabouts Known*)

If you have a youth in the community who is missing, the youth has an active Capias and you are aware of his/her whereabouts, please adhere to the following:

1. Email the DYFS Community Intervention Specialist (CIS), and copy in the Section Manager, at chaquila.peavy@milwaukeecountywi.gov
2. Email Requirements

- ✓ Subject Line: Youth's Name (First initial, Full Last Name, and Missing (e.g. J. Doe-Missing))
- ✓ Youths Full Name & DOB
- ✓ Last Known Location address
- ✓ Placement address (if different from current location)
- ✓ Parent/Guardian name
- ✓ Parent/Guardian Contact Telephone Number
- ✓ Attach a signed copy of the Capias to email (if available)
- ✓ Include any information that would help locate or identify youth

3. Email Receipt

Once the email has been received, the CIS will acknowledge receipt by sending an email of the date and time the police department has been notified of Capias and DYFS' request to locate missing youth. If HSW does not receive an acknowledgement email within ten (10) minutes, contact CIS via telephone 257-7738 (office) or 426-0860 (cell).

- ✚ **AFTERCARE CASES:** The above does not apply to Aftercare cases. For additional direction for Aftercare youth, please refer to [DYFS Policy #063: Aftercare Youth Program: Conduct and the 72-Hour Hold Process](#).

C. JIPS or CHIPS Cases

A youth on a **JIPS** or **CHIPS** petition **only** cannot be held in secure custody pending an appearance at court. If a Capias is filed by the HSW do not mark "hold in detention." HSW must include a name (location or if a person their relationship to the youth), location address, and telephone number on the Capias where the child should be brought to if picked up by law enforcement.

D. Delinquency and JIPS Cases

When there is a pending case and the youth has not yet appeared in court or has missed a court hearing:

If the youth is not present at the hearing, the court shall order a Capias. The court may stay the execution of the Capias until a date-certain if it determines there is good cause to do so. The Deputy Court Clerk shall complete the court entry using the Capias Abatement Program (CAP) event code. The additional text box should **ONLY** be used to instruct the police department what they should do with the youth after they are apprehended.

- ✚ **NOTE:** The HSW must inform the court that they are referring the youth to the CAP to ensure notification of the hearing is made.

V. Capias Cancellations

NOTE: Case scenarios involving youth pending the age of eighteen and/or over a one-year period, require additional HSW Supervisory support to ensure considerations for variations based on types of court orders are properly addressed. ([Refer to DYFS Policy 049: Case Closure](#))

- A. Any youth that has a pending petition with the courts can **NOT** have the capias withdrawn at any time until they appear in front of the court/branch 93.
- B. If a youth's Dispositional Order has expired then the HSW submits a Capias Withdrawn form with the courts. This withdrawal can occur at any age.

- C. For youth under the age of 18 years old whom are missing (AWOL) and the Dispositional Order is about to expire, the HSW needs to file an Extension to the Dispositional Order and keep the capias active. Once that youth turns 18 years of age then the HSW submits a Capias Withdrawn form with the courts.

VI. Documentation Requirements

- A. The HSW needs to document in Synthesis that a Capias was filed with the courts.
- B. A copy of the Capias must be kept in the DYFS case file. Copies must also be provided to the following:
- ✓ DYFS Support staff
 - ✓ District Attorney Office
 - ✓ Public Defenders office

Reviewed & Approved By:

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Mark Mertens, Division Administrator