

JUVENILE COURT  
POLICY/PROCEDURE

**CAPIAS PROCEDURE AND POLICY**

POLICY

A Capias may be issued by the Court in accordance with §48.28 or §938.28 of Wisconsin Statutes for failure of a child or parent to appear at required hearings when the child or parent has submitted to the jurisdiction of the court, has been properly summoned as required by §48.27 or §938.27, or pursuant to a finding by the Court that service of a Summons will be ineffectual. The Commissioner is authorized to sign a Capias.

A Capias issued based on a CHIPS or JIPS petition is not sufficient grounds for holding a juvenile in secure custody pending appearance at court.

PROCEDURE

At the time of the Court hearing, the District Attorney will complete a Capias form, filling in the information needed for completion of the form (including listing all relevant petition numbers). If the Capias is approved by the Court the branch/staff will docket the action, file the Court's copy (copies if more than one petition) of the Capias, and forward the remaining copies with one copy of the pending petition attached to JRC for distribution.

A. Direction to law enforcement and intake: At the time of the hearing, the Court will indicate on the Capias the intent of the court relative to intake by JRC, utilizing the following guideline(s):

1. If the petition underlying the proceeding is a **CHIPS** petition or a petition under §938.13 (**JIPS**), the Court will direct that the child (ages 12 or over) be "brought to JRC for intake". This directive implies that the JRC intake worker has full discretion at that time in determining the need for a temporary custody order pending the rehearing considering factors in the case and may place the child under an Order for Non-Secure Custody at a place designated in §48.207(CHIPS) or §938.207(JIPS). A child/juvenile referred based on a CHIPS or JIPS Capias may not be placed in Secure Custody under this directive. If the juvenile is referred during regular working hours, the intake Counselor will obtain a new court date from the Court and provide the child with written notice of that new time and date. If the child is referred after regular working hours, JRC will contact the Court the next working day of the need to schedule a new hearing and send written notice to all parties. If the child is held under an order for Non-Secure custody, those arrangements can be made at the time of the Physical Custody/Capias hearing the following day.

2. If the petition underlying the court appearance is a **delinquency** petition, and  
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a. There is evidence presented on the record at the hearing that the juvenile meets the criteria under §938.208 the court may direct that when apprehended the juvenile be taken to Juvenile Reception Center and, under the authority of §938.10, further direct that the juvenile be held in Secure Custody pending a hearing.

b. There is not sufficient evidence presented on the record at the hearing to find that the juvenile meets one of the §938.208 grounds the Judge may direct that when apprehended the juvenile be taken to Juvenile Reception Center for an intake decision.

In any case in which the court's directive is "Bring to Juvenile Reception Center for Intake", a copy of the petition should be attached to the CAPIAS to aid JRC Counselors in making a custody determination.

If the juvenile is held in Non Secure or Secure Custody, the hearing before the Court required by the Capias will be scheduled on the Court Commissioner's calendar unless the issuing judge has included additional directives under the Special Instructions section of the Capias. Immediately in the morning of the next working day, JRC will contact the Court issuing the Capias and determine whether or not the Judge wishes to hear the matter directly, in which case the matter must be set with the Judge for some time on that working day, preferably at a time that will minimize conflict(s) with other juvenile matters.

If the juvenile is not held in Non-Secure or Secure Custody, JRC will confirm the juvenile's current living status and confirm with the juvenile and juvenile's parent/caretaker that the juvenile will appear in court when required. The following day, JRC will notify the Court Branch that issued the CAPIAS, the juvenile's social worker, the juvenile's attorney, and the District Attorney's office that the juvenile was apprehended and released. The Court Branch will set a new court date and send notices of the new date to the appropriate parties.

B. Direction(s) to law enforcement related to out of county service and apprehension: On the Capias, the court will indicate what directions should be followed relative to apprehension of the juvenile outside Dane County. The Capias form will provide standard language related to those directions so that if the juvenile is apprehended outside of Dane County or outside the state, the court's intention relative to holding or returning the juvenile to Dane County is clear.

After being notified that the juvenile has been apprehended and that the Capias can be canceled, the Sheriff's office brings their copy of the Capias to JRC for "receipt" and notation of apprehension. That copy is delivered to staff in the Juvenile Court Commissioners office who locate the related file(s) and will place a copy (copies if more than one petition) in the juvenile's file(s) and docket in CCAP that the Capias has been canceled.

## CAPIAS ROSTER

When a juvenile is carried on the Reception Center roster as having a Capias outstanding and has attained age 17 years plus six months, memos are to be forwarded to the District Attorney assigned, Social Worker, and to the Judge who issued the Capias requesting that the matter be reviewed and that Reception Center be advised as to whether the Capias is to remain in effect. Cancellation of the Capias or changes in directions to law enforcement may be made only with the approval of the Court.

## EXCEPTIONS/COMMENTS

In the event of extenuating circumstances that become evident at the time of intake in Reception Center, the Counselor may contact the Judge issuing the Capias or the Duty Judge to present the information and ask that an exception be granted.