

**Opinion No. 32-362**

January 22, 1932

**BY:** Frank H. Patton, Asst. Attorney General

**TO:** Miss Florence Perkinson, Supt., Girls' Welfare Home, Albuquerque, New Mexico.

{\*132} Your letter of January 20th, 1932, with reference to Hazel Roberts, who was committed to the Girls' Welfare Home in April, 1930, has been received.

You state that on January 18th of this year she left the Institution to attend school, but instead met some young man and was married.

You desire to know whether or not this marriage terminates your guardianship and whether you have authority to return this girl to the Institution. Marriage of a child does not, as a general rule, change its status from that of a minor to that of an adult. This girl was committed presumably as a delinquent, and the power of commitment was vested in the district court by virtue of Section 61-103 of the 1929 Compilation. Under this provision, the District Court had the power to commit this girl for a term not exceeding the minority of such girl. Minority, in this case means, of course, twenty one years. In State ex rel Foot v. District Court, a case from the Montana jurisdiction and cited in 49 A. L. R. 398, it was held that marriage emancipated a child from parental authority, but otherwise had little effect and that the disabilities of infancy remain in the absence of express statutory provision.

A case in point is that entitled: Re Emma Bagley Hook. Eugene D. Hook, Petition from Vermont and cited in 19 A. L. R., 610. It was held in that case that when once the state has assumed control of a delinquent child, its authority is not ousted by marriage of the child, and that when a child is found to be delinquent within the meaning of the statute, it becomes a ward of the court and so continues until it arrives at majority.

In view of the authorities it is, therefore, the opinion of this office that the marriage of this girl does not terminate your guardianship, and that you have the power to return her to the Institution. In this connection, it is suggested that you consult with Mr. Eugene D. Lujan, District Attorney, Albuquerque, New Mexico, and be governed by his advice regarding procedure.