

Adoption—Children—Orphans—Orphans' Home.

Trustees of orphans' home cannot consent to the adoption of an orphan or abandoned child when such child has not been in their charge and under their management for a period of one year.

M. L. Higgins, Esq.,
Secretary Bureau of Child and Animal Protection,
Helena, Montana.

My dear Mr. Higgins:

You have submitted the question:

“May the Board of Trustees of an orphans' home or asylum consent to the adoption of a child that has been under the management of the Board of Trustees of such home or asylum for less than one year?”

The subject of your inquiry is covered by the provisions of Section 5867, R. C. M. 1921, as follows:

“A majority of the Board of Trustees of any orphans' home or asylum in this state are hereby authorized and

empowered to consent to the adoption of any orphan child or child abandoned by its parents, by filing their written consent to such adoption, wherein shall be stated that they believe it to be for the best interest of such child that it be adopted by the person or persons making application therefor, which said written consent shall be duly proved or acknowledged by a majority of such Board of Trustees according to Sections 6907 and 6908 of this code, which said written consent shall be filed with the district court at the time of the application for adoption; provided, that such orphan child, or child abandoned by its parents, shall have been in the charge and under the management of said Board of Trustees of such orphans' home or asylum for a period of one year prior to such adoption, and during the time supported wholly, or to the amount of forty per cent, at the expense of such home or asylum."

Without expressing any opinion as to whether the Board of Trustees of an orphans' home or asylum may consent to the adoption of a child after it has been in the charge and under the management of said Board for a year, it is clear that, under this section of the statute, the Board of Trustees cannot consent to the adoption of an orphan or abandoned child when said child has not been in their said charge and under their management for a period of one year.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.