

purpose of reclaiming or reforming unchaste women, or such as are likely to become so, whereupon such secretary may, in his discretion, make an order directing that such person may be committed to such institution for such period as in his judgment may be necessary."

Under the provisions of Chapter 82,

Laws, 1937, the duties and authority of the state bureau of child and animal protection were transferred to and vested in the State Department of Public Welfare. (Section II (f), Part 1.)

Under the provisions of Section 12547, the term of commitment is left to the judgment of the secretary of the state bureau of child and animal protection, now the Director of Child Welfare Services.

Chapter 120, Volume 5, of the Revised Codes, of which the section quoted above is a part, is entitled, "Commitment of female persons to Reformatory Institutions." It is separate from the preceding chapter dealing with the State Vocational School for Girls, and also the chapter dealing with Juvenile Delinquents. It may also be noted that Chapter 120 contains the procedure for commitment to juvenile female offenders who have been ordered committed to any correctional institution under any law of the state, such as the juvenile delinquent law, or the general penal statutes.

The purpose of commitment of juvenile offenders to state correctional institutions is to reform or reclaim, and not to punish. While it is true that Section 12547 does not provide any specific length of time for the commitment, it does leave such matter to the judgment of the secretary or director. In determining this question, the director should make an investigation of the conduct and progress of the person during the period of commitment and of the surroundings and environment to which the person will return. Such investigation should be fairly conducted to the end that the best interests of the person and of the state be served, and with the thought in mind as expressed by our Supreme Court in the case of *State ex rel Palagi v. Freeman, et al*, 81 M. 132, where it said,

Opinion No. 97

Public Welfare—Child Welfare Services—Voluntary Commitment, Length of Discharge.

HELD: The Director of Child Welfare Services of the Department of Public Welfare has the authority and duty to discharge from the House of Good Shepherd, any female committed on voluntary application, when in her judgment, after investigation, such female has been sufficiently reformed, and the environment to which she will return is conducive to her best interests and that of the state.

July 13, 1939.

Mr. I. M. Brandjord, Administrator
State Department of Public Welfare,
Helena, Montana.

My Dear Mr. Brandjord:

You have requested my opinion as to the authority of your department to discharge a female committed to the House of Good Shepherd under the provisions of Chapter 120, Volume 5, Revised Codes of Montana, 1935, Section 12547.

This section provides as follows:

"Any female person may at any time apply to the secretary of the bureau of child and animal protection to be admitted to any institution in this state devoted to the

"Proceedings under the Juvenile Delinquency Law are in no sense criminal; the law does not contemplate punishment for an offense committed by an erring minor; it is no more than an administrative police regulation for the saving of the child and the protection of society; in administering it the courts act more in a paternal than in a judicial capacity, and the provisions of the act in which the proceedings shall be conducted are exclusive."

This purpose is further best expressed in the Juvenile Delinquency statute itself, Section 12288, R. C. M., 1935,

"* * * * It being the intention of this Act that no child should be taken away or kept out of his home or away from his parents or guardian any longer than is reasonably necessary to preserve the welfare of the child and the interest of all this state."

With these observations in mind, it is my opinion that, if, after a careful, thorough and unprejudiced investigation, the Director of Child Welfare Services is satisfied that the female person has been sufficiently reclaimed and that the home life or environment to which she will return upon her release will be conducive to the best interests of herself and of the state, the Director has not only the authority but the duty to order the dismissal.