



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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March 19, 1953

Hon. Frank D. McCown
County Attorney
Dallam County
Dalhart, Texas

Opinion No. S-20

Re: Applicability of the compulsory school attendance law to a 16-year-old married female.

Dear Sir:

You have asked us, in substance, the following question:

May school authorities compel the attendance of a girl who attains the age of sixteen years after the school year starts, who subsequently marries during the school year and discontinues attendance in school?

Article 4625, Vernon's Civil Statutes, provides:

"Every female under the age of twenty-one years who shall marry in accordance with the laws of this State, shall, from and after the time of such marriage, be deemed to be of full age and shall have all the rights and privileges to which she would have been entitled had she been at the time of her marriage of full age."

Since it was enacted in 1848 the courts have consistently construed this Article to release a married female minor from the disabilities of a minor. Thompson v. Cragg, 24 Tex. 582 (1859); Burr v. Wilson, 18 Tex. 368 (1857); Spears v. Houston Fire & Casualty Ins. Co., 215 S.W.2d 896 (Tex.Civ.App. 1948, error ref.).

In Article 2892 et seq., Vernon's Civil Statutes, relating to compulsory education, the word "child" is used throughout with relation to the subject and purpose of the title:

"Every child in the State . . . not more than sixteen years of age shall be required to attend the public schools . . ."

The Articles of the Penal Code applicable to compulsory education, Articles 297, 298, 299, Vernon's Penal Code, likewise use the word "child" throughout in designating the persons subject to such articles. Under the Penal Code provisions the "parent or person standing in parental relation to a child within the compulsory school attendance ages" is the only person subjected to penalties for violations thereof. The marriage of a female releases her from the control of her parents or of her guardian, and vests the control of her person in her husband. Burr v. Wilson, 18 Tex. 368 (1857). The husband is not such a person standing in parental relation as to be subjected to the penalty of the statute.

The delinquent children provisions, Subsection (e) of Section 3 of Article 2338-1, Vernon's Civil Statutes, read as follows:

". . . The term 'delinquent child' means any female person over the age of ten (10) years and under the age of eighteen (18) years . . .

"(e) or who habitually violates a compulsory school attendance law of this State;
. . ."

As stated above, Article 4625, Vernon's Civil Statutes, emancipates a minor girl who marries in accordance with the State laws, and she is deemed of full age. Being deemed of full age she is no longer subject to the compulsory attendance law and it follows that she has not violated such laws by non-attendance so that she might be declared a delinquent child.

SUMMARY

A girl attending school who attains the age of sixteen years and subsequently marries in accordance with the State laws is not

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subject to the compulsory attendance law.

Yours very truly,

APPROVED:

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