

PROPOSED LEGISLATION TO AMEND THE EXISTING LAW IN RELATION
TO THE DETENTION IN CUSTODY OF YOUNG FEMALE OFFENDERS.

(1) The subject of criminal treatment and reform is one which in recent years has enjoyed a considerable quickening of the public interest, this being especially discernible in the activities of certain advocates in the Press, University and Church. In the latter sphere in particular the R.C. Archbishop of Dublin has taken an active interest and has had discussions and correspondence with this Department in the course of which he has advanced proposals for amelioration in regard to certain aspects of the problem. The opinion of His Grace in particular on the treatment of young female offenders coincides with what has for some considerable time been the view of the Minister for Justice, viz., that in this respect the present law is lagging considerably behind modern social progress.

*only prison
is taken
for detention*

(2) As the law stands at present, a person (male or female) is, on account of ordinary civil crime committed to Prison either on remand by a Peace Commissioner or on remand, for trial or under sentence by one of the various Courts, and in any of these events Prison is the only legal place of detention for the purpose of carrying out the Peace Commissioner's or Court's Order. Accordingly, women committed to custody in Eire must be detained in one of other of the three female prisons, viz., Mountjoy, Limerick or Sligo.

*Magedalen
houses as
alternative
to prison*

(3) It is true that at present some Justices have adopted the practice, in cases where they think fit (usually infanticide cases), to sentence a female offender to a term of imprisonment not to be enforced if she undertakes to stay in a convent for a fixed period. This is, however, only a makeshift practice and there are no positive means of compelling the offender to remain in the convent, if at any time she chooses to leave.

*Prison
suitable for
1st offenders*

(4) The incarceration of young persons and certain types of first offenders in the common prison has always been open to objection. The prison system designed as it is to deal with even the most extreme type of criminal is held to be too severe an experience for those who have made their first excursion into crime, and who would be likely to benefit from more considerate handling. Furthermore, this too early acquaintance with prison life may breed a familiarity therewith which will rob it of its deterrent effects, and, worse still, a period spent in prison may be the means of introducing the young offender to habitual criminals, whose after influence will be disastrous.

*Males =
Borstal*

(5) In the case of males this problem was dealt with (though not perhaps with conspicuous success) by the application of the Borstal treatment under the Prevention of Crime Act, 1908, but the small number of female delinquents in this country prevented the Act from being applied to them.

*Criminal Justice
(Female
Offenders)
Bill 1942*

(6) A general scheme of a Bill, which the Minister for Justice proposes to introduce, entitled the Criminal Justice (Female Offenders) Bill, 1942, is annexed. It proposes to remedy, in so far as is possible, the conditions referred to above by the selection of certain residential institutions or houses which, on certification by the Minister for Justice, shall become legal places of detention for female prisoners within the meaning of the Prison Acts. It is not intended that such institutions shall be limited to those under religious control only, and provision will be made, where a house of

any particular denomination is certified, for the detention of delinquents of other persuasions either by the certification of further appropriate houses or otherwise.

*Institution
operated
like Ind.
Ref Sch
- private
- power* (7) Such institutions shall come under State control in much the same manner as Reformatory and Industrial Schools, viz., the control of the Minister for Justice shall be limited to the right to approve of the persons to act as Managers, and of the Rules and Regulations for the working of the institution; to the right to have them inspected periodically by Inspectors of his Department, and to the obligation of defraying the cost of upkeep of persons committed to the institutions by way of capitation grants.

(8) In addition to the foregoing amendments of the law in relation to young female offenders, it is desired to increase the existing powers of the Courts in dealing with habitual female offenders under Section 16 of the Criminal Law Amendment Act, 1935. The maximum penalty which can be imposed for offences under the Section is 6 months imprisonment, and after 6 years experience of the operation of the Act, it is felt that this sentence is not a sufficient deterrent and in any event does not relieve the community from the nuisance of such persons for a sufficiently long period. Accordingly it is proposed in the Bill to increase the maximum penalty under the Section to one of 12 months imprisonment.

Criminal Justice (Female Offenders) Bill, 1942.

Heads of proposed Bill.

- (1) . To empower the Minister for Justice to certify any Institution ^{Minister} or House, which he thinks fit, as a place of detention for young ^{power to} female prisoners ^{to} within the meaning of the Prison Acts, and to ^{place of} withdraw such certificate in any circumstances which seem to ^{detention} warrant such action.
- (2) To empower the Minister for Justice to approve of persons who shall act as managers of such Institutions; to validate by his ^{Murray} approval Rules and Regulations for the working of such a house and to appoint Inspectors who shall be authorised to inspect and report on such Institutions periodically.
- (3) To empower the Minister for Justice, with the consent of the ^{Capitation Grants} Minister for Finance, to pay to the managers of such Institutions monies from the Central Exchequer in the form of Capitation Grants in respect of inmates detained therein.
- (4) To empower a Peace Commissioner or District Justice, on a young female being brought before him charged with a breach of the law, to order her committal on remand, or for trial, to an approved place of detention pending the next Sitting of the appropriate Court, provided that they are satisfied that such person is a young offender who in the circumstances of her case is more likely to derive benefit from reformatory treatment than from imprisonment, and that she is otherwise a fit person for committal to the Institution. ^{→ Sent to Magdalen rather than a Prison}
- (5) To empower a District Justice or a Circuit Court Judge, in lieu of passing sentence on a young female person, to order that she be detained for a fixed period in an approved place of detention. ^{rather than prison}
- (6) To empower the Minister for Justice, in cases where he shall think fit, to order that a young female person committed to prison, on remand or for trial or under sentence, be transferred to an approved place of detention for the period ordered by the Court in her case, and likewise to order that a person committed to a place of detention be transferred to a Prison.
- (7) To amend Section 16 of the Criminal Law Amendment Act, 1935, by providing that the maximum penalty which can be imposed for an offence under the Section be 12 months instead of 6 months.

Criminal Justice (Female Offenders) Bill, 1942.

Heads of Proposed Bill.

c.c.f.

(1)(a) To provide that in any case in which a Justice of the District Court or a Peace Commissioner thinks such a course desirable, he may, on remanding or committing for trial a young female offender of the age of 16 years and upwards, who is not released on bail instead of committing her to prison, commit her to a place of detention certified by the Minister for Justice under the provisions of this Act as suitable, and named in the Warrant of Commitment.

(b) To provide that in the case of any such female offender committed to prison on remand or for trial, the Minister may, if he considers it desirable, order her transfer from prison to a place of Detention provided under the provisions of this Act. (To transfer to such (is))

have a prison in charge of the house as custodian

(2) To provide that the Minister for Justice may, after due enquiry, certify any Institution or house as a suitable place of Detention for young female offenders committed under the provisions of this Act, and the offenders committed to such place, when certified, shall be deemed to be in legal custody.

(3) To provide that payment on a capitation basis may be made from monies provided by the Oireachtas to the proprietors of any such certified place of Detention in respect of the offenders committed thereto by Justices of the District Court or Peace Commissioners, or transferred thereto by the Minister for Justice from any Prison.

(4) To provide that the Minister for Justice may by Order under his hand direct the release of any female offender in Prison under sentence to the care of the proprietors of any Institution or of any Religious Community on such conditions as the Minister for Justice may prescribe, on any breach of which, before the expiration of the sentence, such offender may be removed back to Prison on an order of the Minister for Justice.

(6)

(7) Amend the present law so as to provide for a maximum sentence of twelve months imprisonment in the case of habitual offenders (i.e. persons who had been frequently convicted on such charges as prostitution, ^{larceny} dishonesty, disorderly conduct etc, and whom the Justice was satisfied might be classed as habitual offenders).

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