

1973 WL 27654 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 12, 1973

*1 Mr. C. Weston Houck
Attorney at Law
P. O. Box 1252
Florence, South Carolina 29501

Dear Mr. Houck:

Thank you for your letter of October 5, 1973, concerning guardianship bonds in a Workman's Compensation Claim. I apologize for the delay in answering this letter as I thought it had already been sent.

The question you specifically raised was if a surety bond should be taken out for the total payment to be awarded the minor child or if the bond should be obtained from year to year. There is not a great deal of law in this area; however, such matters are generally within the discretion of the court. See generally 11 C.J.S. Bonds § 40 as to interpretation of judicial bonds. The judge, being under a duty to protect the estate is granted in South Carolina Code of Laws, 1962, Section 31-4 discretion in setting guardianship bonds; and, under this authority the judge may act to protect the minor and his estate by what he perceives to provide the best procedure to accomplish this aim. And, by allowing the bond to be renewed yearly, necessary alterations can be expediently accomplished.

Therefore, though both positions have merit, the ultimate decision concerning the best welfare of the minor, lies with the Judge. The position that Judge Beattie asserts of having the bond renewed each year until all of the money is paid out appears workable and meritorious. There would therefore, be nothing legally to prohibit the implementation of his position.

Sincerely,

Treva Ashworth
Staff Attorney

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