

By: Phillips

H.B. No. 4030

A BILL TO BE ENTITLED

AN ACT

relating to the life insurance policy proceeds of an insured defendant indicted for certain offenses under the Penal Code.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 21, Code of Criminal Procedure, is amended by adding Article 21.32 to read as follows:

Art. 21.32. LIFE INSURANCE PROCEEDS ON INDICTMENT FOR CERTAIN OFFENSES. (a) When a defendant is indicted or waives indictment for an offense under Chapter 19 or Section 21.02, 21.11, 21.12, or 22.021, Penal Code, the court shall determine whether the defendant is covered by a life insurance policy.

(b) If the court determines that the defendant is covered by a life insurance policy, the court shall provide written notice to each:

(1) insurer providing a life insurance policy to the defendant; and

(2) victim of the offense.

(c) If the defendant dies before the disposition of the charge, the court shall order the insurer to pay the proceeds of the life insurance policy to a trustee appointed by the court.

(d) The trustee shall hold the proceeds of the life insurance policy in trust until:

(1) the statute of limitations on a civil action against the defendant for damages incurred by the victim as a result

of the offense for which the defendant was indicted or waived indictment has expired; and

(2) there is no civil action or appeal pending against the defendant for damages incurred by the victim as a result of that offense.

(e) The trustee shall pay from the trust fund any judgment rendered against the defendant for damages incurred by the victim as a result of the offense for which the defendant was indicted or waived indictment.

(f) Within a reasonable time after the date described by Subsection (d), the trustee shall pay the remaining trust funds to the beneficiary or beneficiaries of the life insurance policy if the amount of the trust fund exceeds the amount of any judgment paid under Subsection (e).

SECTION 2. Section 1108.053, Insurance Code, is amended to read as follows:

Sec. 1108.053. EXCEPTIONS TO EXEMPTIONS. The exemptions provided by Section 1108.051 do not apply to:

(1) a premium payment made in fraud of a creditor, subject to the applicable statute of limitations for recovering the payment;

(2) a debt of the insured or beneficiary secured by a pledge of the insurance policy or the proceeds of the policy; ~~[or]~~

(3) a child support lien or levy under Chapter 157, Family Code; or

(4) a court order under Article 21.32, Code of Criminal Procedure.

1 SECTION 3. (a) Article 21.32, Code of Criminal Procedure,
2 as added by this Act, applies to an indictment presented or waived
3 on or after the effective date of this Act. An indictment presented
4 or waived before the effective date of this Act is governed by the
5 law as it existed immediately before the effective date of this Act,
6 and that law is continued in effect for that purpose.

7 (b) The change in law to Section [1108.053](#), Insurance Code,
8 made by this Act applies to a judgment in a civil proceeding
9 commenced on or after the effective date of this Act. A judgment in
10 a civil proceeding commenced before the effective date of this Act
11 is governed by the law as it existed immediately before the
12 effective date of this Act, and that law is continued in effect for
13 that purpose.

14 SECTION 4. This Act takes effect September 1, 2017.