

# HOUSE BILL No. 1032

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 29-1-2-12.1.

**Synopsis:** Constructive trustees. Provides that if a constructive trust is established, the property that is subject to the trust may not be withheld from those persons legally entitled to the property while an appeal from the constructive trustee's judgment of conviction is pending.

**Effective:** July 1, 1999.

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January 6, 1999, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1032

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A BILL FOR AN ACT to amend the Indiana Code concerning probate.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 29-1-2-12.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12.1. (a) A person is a  
3 constructive trustee of any property that is acquired by him or that he  
4 is otherwise entitled to receive as a result of a decedent's death, if that  
5 person has been found guilty, or guilty but mentally ill, of murder,  
6 causing suicide, or voluntary manslaughter, because of the decedent's  
7 death. A judgment of conviction is conclusive in a subsequent civil  
8 action to have the person declared a constructive trustee.  
9 (b) A civil action may be initiated to have a person declared a  
10 constructive trustee of property that is acquired by him, or that he is  
11 otherwise entitled to receive, as a result of a decedent's death, if:  
12 (1) the person has been charged with murder, causing suicide, or  
13 voluntary manslaughter, because of the decedent's death; and  
14 (2) the person has been found not responsible by reason of  
15 insanity at the time of the crime.  
16 If a civil action is initiated under this subsection, the court shall declare  
17 that the person is a constructive trustee of the property if by a

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1 preponderance of the evidence it is determined that the person killed  
2 or caused the suicide of the decedent.

3 (c) If a constructive trust is established under this section, the  
4 property that is subject to the trust may be used only to benefit those  
5 persons, other than the constructive trustee, legally entitled to the  
6 property, determined as if the constructive trustee had died  
7 immediately before the decedent. However, if any property that the  
8 constructive trustee acquired as a result of the decedent's death has  
9 been sold to an innocent purchaser for value who acted in good faith,  
10 that property is no longer subject to the constructive trust, but the  
11 property received from the purchaser under the transaction becomes  
12 subject to the constructive trust.

13 **(d) If a constructive trust is established under this section, the**  
14 **property that is subject to the trust may not be withheld from those**  
15 **persons legally entitled to the property while an appeal from the**  
16 **constructive trustee's judgment of conviction is pending.**

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