

## **BILL ANALYSIS**

Senate Research Center  
87R12208 LHC-D

S.B. 1354  
By: Miles  
Criminal Justice  
3/26/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1354 seeks to protect assisted living facility residents by amending Sections 22.04(d) and 22.04(i) of the Penal Code to change "and" to "or" in each section. Currently, the code states that a group home or facility agent has assumed care, custody, or control if the agent's acts, words, or conduct would lead a reasonable person to believe he has accepted responsibility for protection, food, shelter, and medical care for the group home or facility resident.

The Harris County District Attorney recommends changing "and" to "or" because as the law currently stands, a prosecutor would have to prove that the group home or facility agent has assumed responsibility for protection, food, shelter, and medical care to hold them accountable for misconduct. Proving all four of these elements is nearly impossible. Group home or facility agents responsible for any of the above needs for their residents must be held accountable for abuse.

Boarding houses and assisted living facilities house many vulnerable people who are subject to abuse and mistreatment. Last year in Harris County, 35 people in a group home were found without food or medication. At least two people were taken to the hospital, and another person was treated at the scene with a visible gaping wound to the abdomen.

S.B. 1354 seeks to protect these vulnerable citizens by better holding their abusers accountable.

As proposed, S.B. 1354 amends current law relating to the prosecution of the offense of injury to a child, elderly individual, or disabled individual.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 22.04(d) and (i), Penal Code, as follows:

(d) Provides that, for purposes of an omission that causes a condition described by Subsection (a)(1) (relating to providing that an offense is committed if a person causes serious bodily injury to certain individuals), (2) (relating to providing that an offense is committed if a person causes serious mental deficiency, impairment, or injury to certain individuals), or (3) (relating to providing that an offense is committed if a person causes bodily injury to certain individuals), the actor has assumed care, custody, or control if the actor has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that the actor has accepted responsibility for protection, food, shelter, or medical care, rather than protection, food, shelter, and medical care, for a child, elderly individual, or disabled individual. Makes nonsubstantive and conforming changes.

(i) Provides that it is an affirmative defense to prosecution under Subsection (b)(2) (relating to providing that an omission that causes certain conditions is conduct constituting an offense if an actor has assumed care, custody, or control of certain individuals) that before the offense the actor notified in person the child, elderly

individual, or disabled individual that the actor would no longer provide the applicable care described by Subsection (d), rather than any of the care described by Subsection (d), and notified in writing the parents or a person, other than the actor, acting in loco parentis to the child, elderly individual, or disabled individual that the actor would no longer provide the applicable care, rather than any of the care, described by Subsection (d).  
Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.