

BILL ANALYSIS

Senate Research Center
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S.B. 1369
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a person commits an offense if they are the owner, operator, or employee of a group home, nursing facility, assisted living center, and intermediate care facility for someone who has an intellectual or developmental disability and causes them harm. This harm equates to serious bodily injury, serious mental deficiency, impairment, or injury and is only an offense if these persons intentionally, knowingly, recklessly, or with criminal negligence causes harm to a child, elderly, or disabled individual who resides at the facility.

The current law fails to mention boarding home facilities, which are establishments that take care of the elderly and people with disabilities. These homes provide meals, transportation, or assistance with self-administration of medication, but do not provide personal care services. These boarding homes that run and function like other nursing or assisted living facilities should have the same prosecution for a person who commits serious bodily injury, serious mental deficiency, impairment, or injury along with bodily injury.

S.B. 1369 adds boarding home facilities to the list of places where a person is committing an offense if they injure a child, elderly individual, or an individual with disabilities. The bill also creates an affirmative defense to prosecution if the actor notifies the individual, the caregiver of the individual, and the Department of Family and Protective Services that they will no longer be providing care.

As proposed, S.B. 1369 amends current law relating to the prosecution for 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(a-1) and (i), Penal Code, as follows:

(a-1) Includes a boarding home facility in the list of group homes or facilities for which a person commits an offense if the person is an owner, operator, or employee of any one of these group homes or facilities, and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to certain residents of that group home or facility serious bodily injury, serious mental deficiency, impairment, or injury, or bodily injury. Changes a reference to mental retardation to an intellectual or developmental disability.

(i) Provides that it is an affirmative defense to prosecution under Subsection (b)(2) (relating to providing that an omission that causes a certain condition is conduct constituting a certain offense if the actor has assumed care, custody, or control of certain persons) that before the offense the actor:

(1) notified in person the child, elderly individual, or disabled individual that the actor would no longer provide any of the care described by Subsection (d)

(relating to providing that the actor has certain responsibilities for certain purposes and under certain circumstances), 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 any of the care described by Subsection (d), rather than notified in person the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); and notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d). Deletes existing designation of Subdivision (2) and makes nonsubstantive changes; or

(2) notified in writing the Department of Family and Protective Services, rather than the Department of Protective and Regulatory Services, that the actor would no longer provide any of the care described by, rather than set forth in, Subsection (d). Redesignates existing Subdivision (3) as Subdivision (2) and makes a nonsubstantive change.

SECTION 2. Amends Section 22.04(c)(3), Penal Code, to redefine “disabled individual” by including mental illness, as defined by Section 571.003 (Definitions), Health and Safety Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.