By:  Miles, Zaffirini S.B. No. 1354

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of injury to a child, elderly individual, or disabled individual.

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

SECTION 1.  Sections 22.04(d) and (i), Penal Code, are amended to read as follows:

(d)  For purposes of an omission that causes a condition described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if the actor [~~he~~] has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that the actor [~~he~~] has accepted responsibility for protection, food, shelter, or [~~and~~] medical care for a child, elderly individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), or (3), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, or [~~and~~] medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(i)  It is an affirmative defense to prosecution under Subsection (b)(2) 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 applicable 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 [~~any of~~] the applicable care described by Subsection (d); or

(2)  notified in writing the Department of Family and Protective Services that the actor would no longer provide [~~any of~~] the applicable care described by Subsection (d).

SECTION 2.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3.  This Act takes effect September 1, 2021.