

H.533

An act relating to victims' rights and animal welfare

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 5305 is amended to read:

§ 5305. INFORMATION CONCERNING RELEASE FROM
~~CONFINEMENT~~ CUSTODY

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the ~~department of corrections~~ Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.

Sec. 2. 13 V.S.A. § 5314 is amended to read:

§ 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

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(b) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:

(1) Information as to the accused's identity unless inconsistent with law enforcement purposes.

(2) Information as to whether the accused has been taken into custody.

(3) The file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case.

(4) The prosecutor's name, office street address, and telephone number.

(5) An explanation that no individual is under an obligation to respond to questions which may be asked outside a courtroom or deposition.

(6) Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance.

Sec. 3. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:

(1) to be given advance notice by the prosecutor's office of the date of the proceedings; and

(2) to appear, personally, to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution.

(b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

(c) In accordance with Court rules, at the sentencing or change of plea hearing, the Court shall ask if the victim is present and, if so, whether the

victim would like to be heard regarding sentencing or the proposed deferral of sentencing. In imposing the sentence or considering whether to defer sentencing, the Court shall consider any views offered at the hearing by the victim. If the victim is not present, the Court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing or the proposed deferral of sentencing and shall take those views into consideration in imposing the sentence or considering whether to defer sentencing.

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the Court imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim and shall also explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.

(e) At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed

by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing.

(f) The prosecutor's office shall use all reasonable efforts to keep the victim informed and consult with the victim throughout the plea agreement negotiation process in any case involving a victim of a listed crime.

Sec. 4. 24 V.S.A. § 1943 is added to read:

§ 1943. ANIMAL CRUELTY INVESTIGATION ADVISORY BOARD

(a) Board. An Animal Cruelty Investigation Advisory Board is created within the Department of Public Safety to advise the Governor, the General Assembly, and the Commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities.

(b) Membership.

(1) The Advisory Board shall be composed of the following members:

(A) the Commissioner of Public Safety or designee;

(B) the Executive Director of State's Attorneys and Sheriffs or designee;

(C) the Secretary of Agriculture, Food and Markets or designee;

(D) the Commissioner of Fish and Wildlife or designee;

(E) a member appointed by the Governor to represent the interests of the Vermont League of Cities and Towns;

(F) two members appointed by the Governor to represent the interests of organizations dedicated to promoting the welfare of animals;

(G) a member appointed by the Governor to represent the interests of the Vermont Police Association;

(H) a member appointed by the Governor to represent the interests of dog breeders and associated groups;

(I) a member appointed by the Governor to represent the interests of veterinarians; and

(J) a member to represent the interests of the Criminal Justice Training Council.

(2) The Board shall elect a chair and a vice chair which shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of six members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) Duties. The Board shall exercise oversight over Vermont's system for investigating and responding to animal cruelty complaints and develop a systematic, collaborative approach to providing the best services to Vermont's animals statewide, given monies available. In carrying out its responsibilities under this subsection, the Board shall:

(1) identify and monitor the extent and scope of any deficiencies in Vermont's system of investigating and responding to animal cruelty complaints;

(2) work with the Department of Public Safety to study the feasibility of designating one law enforcement agency to receive, dispatch, and document the outcome of animal cruelty complaints and, with the assistance of the Vermont Sheriffs' Association, develop a uniform response protocol for assigning complaints to the appropriate local law enforcement agencies;

(3) ensure that investigations of serious animal cruelty complaints are systematic and documented, and develop written standard operating procedures and checklists to support the objective investigation of cruelty complaints that include objective measures of both environmental and clinical evidence of cruelty;

(4) ensure that requests for voluntary compliance are made in writing, with clear requests and timelines, and include a timeline for the investigator to perform a follow-up visit to confirm actions taken;

(5) develop a guide for animal cruelty prosecution, including a review of current sentencing recommendations for State's Attorneys;

(6) research the feasibility of developing and implementing an animal cruelty prevention and education program for offenders to be used as a part of offenders' sentencing;

(7) explore potential private and public sources of funding for animal cruelty investigations, including animal care expenses;

(8) develop trainings, protocols, procedures, and guidance documents for agencies engaging in animal welfare responsibilities;

(9) develop and identify funding sources for an animal cruelty investigation certification program for humane officers in accordance with 13 V.S.A. § 356, and develop a standard by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years preceding July 1, 2017 may become certified without completion of the certification program requirements;

(10) identify funding sources for the training requirement under 20 V.S.A. § 2365b;

(11) develop recommendations for providing liability protection and reducing uncompensated costs to animal shelters and animal welfare groups that assist law enforcement authorities in animal cruelty investigations;

(12) explore changing the annual deadline for dog licensure under 20 V.S.A. § 3582 better to align with the time of year dogs require annual veterinary care; and

(13) determine what should appropriately constitute an enforcement action triggering the obligation of the Agency of Agriculture, Food and Markets to assist law enforcement pursuant to 13 V.S.A. § 354(a).

(d) Reimbursement. Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, paid from the budget of the Agency of Administration for attendance of meetings of the Board.

(e) Meetings and report. The Board shall meet no fewer than six times a year to undertake its duties as outlined in subsection (c) of this section. The Board shall report on its findings and specific recommendations in brief summary to the House and Senate Committees on Judiciary, House Committee on Agriculture and Forest Products, and Senate Committee on Agriculture annually on or before January 15.

Sec. 5. 20 V.S.A. § 2365b is added to read:

§ 2365b. ANIMAL CRUELTY RESPONSE TRAINING

As part of basic training in order to become certified as a Level Two and Level Three law enforcement officer, a person shall receive a two-hour training module on animal cruelty investigations as approved by the Vermont Criminal Justice Training Council and the Animal Cruelty Investigation Advisory Board.

Sec. 6. 13 V.S.A. § 356 is added to read:

§ 356. HUMANE OFFICER REQUIRED TRAINING

All humane officers, as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.

Sec. 7. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;
SEARCHES AND SEIZURES; FORFEITURE

(a) The Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry. Law enforcement may consult with the Secretary in person or by electronic means, and the Secretary shall assist law enforcement in determining whether the practice, or animal condition, or both represent acceptable livestock or poultry husbandry practices.

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Sec. 8. DEPARTMENT OF CORRECTIONS; ANIMAL CARE PILOT
PROGRAM

The Commissioner of Corrections may implement a pilot program in at least one correctional facility that would permit qualified inmates to provide temporary care, on-site, for animals on a weekly or more frequent basis. The Commissioner shall report on the Department's progress towards

implementation of the program, with recommendations as to whether it could include caring for animals that have been seized or relinquished in cruelty or neglect investigations, to the Joint Committee on Justice Oversight on or before September 1, 2016.

Sec. 9. [Deleted.]

Sec. 9a. VERMONT ROUTE 105 BRIDGE NAMING

Bridge #64 on Vermont Route 105 in the town of Derby shall be named the “Kermit A. Smith Memorial Bridge.” In fiscal year 2017, the Agency of Transportation shall place a commemorative plaque or erect a sign on or near the bridge to reflect its naming. This plaque or sign shall conform to the Federal Highway Administration’s Manual on Uniform Traffic Control Devices.

Sec. 10. EFFECTIVE DATES

(a) Secs. 5 and 6 shall take effect on July 1, 2017.

(b) This section and the remaining sections shall take effect on July 1, 2016.