

1 S.237

2 Introduced by Senator Ashe

3 Referred to Committee on

4 Date:

5 Subject: Crimes; humane treatment of animals; civil forfeiture proceedings

6 Statement of purpose of bill as introduced: This bill proposes to revise the
7 civil forfeiture proceedings concerning an animal seized due to alleged abuse.

8 An act relating to civil forfeiture proceedings in cases of animal cruelty

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

10 Sec. 1. 13 V.S.A. § 354 is amended to read:

11 § 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;

12 SEARCHES AND SEIZURES; FORFEITURE

13 * * *

14 (d) If an animal is seized under this section, the ~~state may~~ State shall
15 institute a civil proceeding for forfeiture of the animal in the territorial unit of
16 the Criminal Division of the Superior Court where the offense is alleged to
17 have occurred. The proceeding shall be instituted by a motion for forfeiture,
18 which shall be filed with the Court and served upon the animal's owner.

19 (e) ~~The court shall set a hearing to be held within 21 days after institution~~
20 ~~of a forfeiture proceeding under this section~~ A preliminary hearing shall be

1 held within 21 days of institution of the civil forfeiture proceeding. If the
2 defendant requests a hearing on the merits, the Court shall schedule a final
3 hearing on the merits to be held within 21 days of the date of the preliminary
4 hearing. In no event shall a final hearing occur more than 42 days after the
5 date of the commencement of the civil forfeiture proceeding. Time limits
6 under this subsection shall not be construed as jurisdictional.

7 (f)(1) At the hearing on the motion for forfeiture, the State shall have the
8 burden of establishing by ~~clear and convincing evidence~~ a preponderance of
9 the evidence that the animal was subjected to cruelty, neglect, or abandonment
10 in violation of section 352 or 352a of this title. The Court shall make findings
11 of fact and conclusions of law and shall issue a final order. ~~If the state meets~~
12 ~~its burden of proof, the motion shall be granted and the court shall order the~~
13 ~~immediate forfeiture of the animal in accordance with the provisions of~~
14 ~~subsection 353(e) of this title~~ If the Court finds for the petitioner by a
15 preponderance of the evidence, the Court shall order immediate forfeiture of
16 the animal to the petitioner.

17 (2) No testimony or other information presented by the defendant in
18 connection with a forfeiture proceeding under this section or any information
19 directly or indirectly derived from such testimony or other information may be
20 used for any purpose, including impeachment and cross-examination, against

1 the defendant in any criminal case, except a prosecution for perjury or giving a
2 false statement.

3 (g)(1) If the defendant is convicted of criminal charges under this chapter
4 or if an order of forfeiture is entered against an owner under this section, the
5 defendant or owner shall be required to repay all reasonable costs incurred by
6 the custodial caregiver for caring for the animal, including veterinary expenses.

7 (2)(A) If the defendant is acquitted of criminal charges under this
8 chapter and a civil forfeiture proceeding under this section is not pending, an
9 animal that has been taken into custodial care shall be returned to the defendant
10 unless the ~~state~~ State institutes a civil forfeiture proceeding under this section
11 within seven days of the acquittal.

12 (B) If the Court rules in favor of the owner in a civil forfeiture
13 proceeding under this section and criminal charges against the owner under
14 this chapter are not pending, an animal that has been taken into custodial care
15 shall be returned to the owner unless the State files criminal charges under this
16 section within seven days after the entry of final judgment.

17 (C) If an animal is returned to a defendant or owner under this
18 subdivision, the defendant or owner shall not be responsible for the costs of
19 caring for the animal.

1 (h) An order of the Criminal Division of the Superior Court under this
2 section may be appealed as a matter of right to the Supreme Court. The order
3 shall not be stayed pending appeal.

4 (i) The provisions of this section are in addition to and not in lieu of the
5 provisions of section 353 of this title.

6 (j) It is unlawful for a person to interfere with a humane officer or the
7 Secretary of Agriculture, Food and Markets engaged in official duties under
8 this chapter. A person who violates this subsection shall be prosecuted under
9 section 3001 of this title.

10 Sec. 2. EFFECTIVE DATE

11 This act shall take effect on July 1, 2014.