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H.283

Introduced by Representative Rachelson of Burlington

Referred to Committee on

Date:

Subject: Crimes; animal cruelty; sentencing upon conviction

Statement of purpose of bill as introduced: This bill proposes to allow courts the discretion to place restrictions on people convicted of animal cruelty offenses regarding their future ownership interest in animals.

An act relating to penalties for animal cruelty offenses

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

Sec. 1. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3), (4), or (5) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

1 (2) Aggravated cruelty under section 352a of this title shall be
2 punishable by a sentence of imprisonment of not more than five years or a fine
3 of not more than \$5,000.00, or both. Second and subsequent offenses shall be
4 punishable by a sentence of imprisonment of not more than ten years or a fine
5 of not more than \$7,500.00, or both.

6 (3) An offense committed under subdivision 352(5) or (6) of this title
7 shall be punishable by a sentence of imprisonment of not more than five years
8 or a fine of not more than \$5,000.00, or both.

9 (4)(A) Except as provided in subdivision (B) of this subdivision (4), a
10 person found in violation of subdivision 352(3), (4), or (9) of this title pursuant
11 to this subdivision shall be imprisoned not more than one year or fined not
12 more than \$2,000.00, or both. Second and subsequent convictions shall be
13 punishable by a sentence of imprisonment of not more than two years or a fine
14 of not more than \$5,000.00, or both.

15 (B) In lieu of a criminal citation or arrest, a law enforcement officer
16 may issue a civil citation to a person who violates subdivision 352(3), (4), or
17 (9) of this title if the person has not been previously adjudicated in violation of
18 this chapter. A person adjudicated in violation of subdivision 352(3), (4), or
19 (9) of this title pursuant to this subdivision shall be assessed a civil penalty of
20 not more than \$500.00. At any time prior to the person admitting the violation
21 and paying the assessed penalty, the State's Attorney may withdraw the

1 complaint filed with the Judicial Bureau and file an information charging a
2 violation of subdivision 352(3), (4), or (9) of this title in the Criminal Division
3 of the Superior Court.

4 (C) Nothing in this subdivision shall be construed to require that a
5 civil citation be issued prior to a criminal charge of violating subdivision
6 352(3), (4), or (9) of this title.

7 (5) A person who violates subdivision 352(1) of this title by
8 intentionally killing or attempting to kill an animal belonging to another or
9 subdivision 352(2) of this title by torturing, administering poison to, or cruelly
10 harming or mutilating an animal shall be imprisoned not more than two years
11 or fined not more than \$5,000.00, or both.

12 (b) Additional requirements.

13 (1) In addition to any other sentence the court may impose, the court
14 may require a defendant convicted of a violation under section 352 or 352a of
15 this title to:

16 ~~(1)(A)~~ Forfeit any rights to the animal subjected to cruelty, and to any
17 other animal, except livestock or poultry owned, possessed, or in the custody
18 of the defendant.

19 ~~(2)(B)~~ Repay the reasonable costs incurred by any person, municipality
20 or agency for providing care for the animal prior to judgment. If the court does

1 not order a defendant to pay all the applicable costs incurred or orders only
2 partial payment, it shall state on the record the reasons for that action.

3 ~~(3)(C) Forfeit any future right to own, possess, or care for any animal~~
4 ~~for a period that the court deems appropriate. [Repealed.]~~

5 ~~(4)(D)~~ Participate in available animal cruelty prevention programs or
6 educational programs, or both, or obtain psychiatric or psychological
7 counseling, within a reasonable distance from the defendant's residence. If a
8 juvenile is adjudicated delinquent under section 352 or 352a of this title, the
9 court may order the juvenile to undergo a psychiatric or psychological
10 evaluation and to participate in treatment that the court determines to be
11 appropriate after due consideration of the evaluation. The court may impose
12 the costs of such programs or counseling upon the defendant when appropriate.

13 ~~(5)(E)~~ Permit periodic unannounced visits ~~for a period up to one year~~ by
14 a humane officer to inspect the care and condition of any animal permitted by
15 the court to remain in the care, custody, or possession of the defendant, or to
16 verify compliance with any limitations on animal ownership or other
17 restrictions authorized by this section. Such period may be extended by the
18 court upon motion made by the State.

19 (2) In addition to any other sentence or requirement the court may
20 impose under this section:

1 (A) the court may prohibit or limit any person convicted of an
2 offense under subdivision 352(3), 352(4), 352(7), 352(8), 352(9), or 352(10) of
3 this title from owning, possessing, residing with, or engaging in employment
4 involving the care of any animal for any period of time and impose any other
5 reasonable restrictions on the person's future ownership or possession of
6 animals as may be necessary for the protection of the animals.

7 (B) the court shall prohibit or limit any person convicted of an
8 offense under subdivision 352(1), 352(2), 352(5), 352(6), 352(11),
9 section 352a, or subsection 355(b) of this title from owning, possessing,
10 residing with, or engaging in employment involving the care of any animal for
11 not less than five years and impose any other reasonable restrictions on the
12 person's future ownership or possession of animals as may be necessary for the
13 protection of the animals.

14 (3) Any person found in violation of a court order incorporating the
15 provisions of this section may, in addition to any other punishment provided
16 by law, be fined up to \$1,000.00 for each animal held in unlawful ownership or
17 possession.

18 (4) Any animal involved in a violation described in this section shall be
19 forfeited to the State.

20 (5) The purpose of this section is to reduce recidivism and prevent the
21 further endangerment of animals by persons convicted of a violation under

1 section 352 or 352a of this title. The court may use, when appropriate, the
2 limitations on animal ownership or other restrictions authorized by this
3 subsection to achieve this purpose.

4 (c) Transfer of rights. Upon an order of forfeiture of an animal under this
5 section or section 354 of this title, the court shall order custody of the animal
6 remanded to a humane society or other individual deemed appropriate by the
7 court, for further disposition in accordance with accepted practices for humane
8 treatment of animals. A transfer of rights under this section constitutes a
9 transfer of ownership and shall not constitute or authorize any limitation upon
10 the right of the humane society, individual, or other entity, to whom rights are
11 granted to dispose of the animal.

12 Sec. 2. EFFECTIVE DATE

13 This act shall take effect on passage.