No. 118. An act relating to penalties and procedures for animal cruelty offenses.

(H.578)

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

Sec. 1. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

* * *

(21) "Sexual conduct" means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; ~~or~~

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person's body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal;

(C) without a bona fide veterinary or animal husbandry purpose, a person touching or fondling a sex organ or anus of an animal, either directly or through clothing; or

(D) without a bona fide veterinary or animal husbandry purpose, any intentional transfer or transmission of semen by a person upon any part of an animal.

* * *

(25) "Working with" means working or volunteering in any capacity, including as an independent contractor, that requires the person to be in contact with an animal, including at a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeding service, veterinary hospital or clinic, animal welfare society, or any nonprofit organization incorporated for the purpose of providing for or promoting the welfare, protection, and humane treatment of animals.

Sec. 2. 13 V.S.A. § 352 is amended to read:

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) Intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner.

(2) Overworks, overloads, tortures, torments, abandons, administers poison to, cruelly harms or mutilates an animal, or exposes a poison with intent that it be taken by an animal.

(3) Ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted.

(4) Deprives an animal that a person owns, possesses, or acts as an agent for of adequate food, water, shelter, rest, sanitation, or necessary medical attention or transports an animal in overcrowded vehicles.

(5)(A) Owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting; possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting; or permits any such act to be done on premises under ~~his or her~~ the person's charge or control.

(B) Owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting or enhancing an animal's fighting capability.

(6) Acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight.

(7) As poundkeeper, officer, or agent of a humane society or as an owner or employee of an establishment for treatment, board, or care of an animal, knowingly receives, sells, transfers, or otherwise conveys an animal in ~~his or her~~ the person's care for the purpose of research or vivisection.

(8) Intentionally torments or harasses an animal owned or engaged by a police department or public agency of the State or its political subdivisions or interferes with the lawful performance of a police animal.

(9) Knowingly sells, offers for sale, barters, or displays living baby chicks, ducklings, or other fowl that have been dyed, colored, or otherwise treated so as to impart to them an artificial color or fails to provide poultry with proper brooder facilities.

(10) Uses a live animal as bait or lure in a race, game, or contest or in training animals in a manner inconsistent with 10 V.S.A. Part 4 or the rules adopted thereunder.

(11)(A) Engages in sexual conduct with an animal.

(B) Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct.

(C) Organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal.

(D) Causes, aids, or abets another person to engage in sexual conduct with an animal.

(E) Permits sexual conduct with an animal to be conducted on premises under ~~his or her~~ the person's charge or control.

(F) Advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

(G) Knowingly possesses, films, or distributes obscene visual images of sexual conduct with an animal.

(12) Possesses, owns, cares for, resides with, has custody of, or works with an animal while the person is prohibited from possessing owning, caring for, having custody of, or working with an animal by a court order.

(13) Knowingly refuses to comply with a court order issued pursuant to subdivision 353(b)(1)(E) of this title to permit periodic unannounced visits by a humane officer or the Director of Animal Welfare.

Sec. 3. 13 V.S.A. § 352a is amended to read:

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; ~~or~~

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer; or

(4)(A) engages in sexual conduct with an animal in the presence of a minor or in which a minor is a participant;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct in the presence of a minor or in which a minor is a participant;

(C) organizes, promotes, conducts, aids, abets, or participates in an act involving any sexual conduct with an animal in the presence of a minor or in which a minor is a participant as an observer;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal in the presence of a minor or in which the minor is a participant;

(E) permits sexual conduct with an animal in the presence of a minor or in which a minor is a participant that is conducted on premises under the person's charge or control;

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State in the presence of a minor or in which the minor participates; or

(G) knowingly possesses, films, or distributes obscene visual images of sexual conduct with an animal in the presence of a minor or in which the minor participates.

Sec. 4. 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.

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

punishable by a sentence of imprisonment of not more than ~~ten~~ 10 years or a fine of not more than $7,500.00, or both.

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

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision (A) shall be imprisoned not more than one year or fined 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.

(B) In lieu of a criminal citation or arrest, a law enforcement officer may issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision (B) shall be assessed a civil penalty of not more than $500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the State's Attorney may withdraw the complaint filed with the Judicial Bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the Criminal Division of the Superior Court.

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

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

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

~~(1)~~(A) ~~Forfeit~~ For a first violation, forfeit any rights to the animal subjected to cruelty, and to any other animal~~, except livestock or poultry~~ owned, possessed, residing or domiciled with, or in the custody of the defendant. Livestock or poultry shall not be subject to forfeiture under this subdivision (A) unless the person was convicted of abusing livestock or poultry.

~~(2)~~(B) Repay the reasonable costs incurred by any person, municipality, or agency for providing care for the animal prior to judgment. ~~If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.~~

~~(3)~~(C)(i) ~~Forfeit~~ For a first violation of section 352 of this title, forfeit any future right to own, possess, ~~or~~ care for, reside with, have custody of, or work with any animal for a period ~~that the court deems appropriate~~ of up to five years.

(ii) For a first violation of section 352a of this title, forfeit any future right to own, possess, care for, reside with, have custody of, or work with any animal for a period of up to 10 years.

(iii) A person shall not be required to forfeit any future right to own, possess, care for, have custody of, or work with livestock or poultry under this subdivision (C) unless the person was convicted of abusing livestock or poultry.

~~(4)~~(D)(i)(I) ~~Participate in~~ complete an available animal cruelty prevention ~~programs~~ program that is approved by the Director of Animal Welfare;

(II) ~~or educational programs, or both, or~~ complete an animal abuse education accountability program, if any are approved by the Director of Animal Welfare; and

(III) ~~obtain~~ undergo a psychiatric or psychological ~~counseling,~~ evaluation, and, if the screening indicates that therapy is needed, obtain psychiatric, psychological, or mental health treatment with a licensed clinician, remotely or within a reasonable distance from the defendant's residence. ~~If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the~~

~~court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.~~

(ii) The court may impose the costs of programs or counseling ordered pursuant to this subdivision (D) upon the defendant when appropriate.

~~(5)~~(E) Permit periodic unannounced visits ~~for a period up to one year~~ by a humane officer or the Director of Animal Welfare to inspect the care and condition of any animal ~~permitted by the court to remain~~ in the care, custody, or possession of the defendant during the period, and for up to one year after expiration of the period, that the defendant is prohibited from owning, possessing, caring for, residing with, having custody of, or working with an animal by an order issued pursuant to subdivision (C) of this subdivision (b)(1) or subdivision (2) of this subsection (b). Such period may be ~~extended~~ modified by the court upon motion made by the State.

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

(A) For a second or subsequent violation, forfeit any rights to the animal subjected to cruelty, and to any other animal possessed, residing or domiciled with, or in the custody of the defendant. Livestock or poultry shall

not be subject to forfeiture under this subdivision (A) unless the person was convicted of abusing livestock or poultry.

(B)(i) For a second or subsequent violation of section 352 of this title, forfeit any future right to own, possess, care for, reside with, have custody of, or work with any animal for a period of not less than five years.

(ii) For a second or subsequent violation of section 352a of this title, forfeit any future right to own, possess, care for, reside with, have custody of, or work with any animal for a period of not less than 10 years.

(iii) A person shall not be required to forfeit any future right to own, possess, care for, have custody of, or work with livestock or poultry under this subdivision (B) unless the person was convicted of abusing livestock or poultry.

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

(d)(1) A person who is prohibited from owning, possessing, caring for, residing with, having custody of, or working with an animal by an order issued

pursuant to subdivision (b)(1)(C) or (b)(2) of this section may petition the court for an order that the person be relieved from the prohibition imposed by that subdivision. When the petition is filed, the petitioner shall provide notice and a copy of the petition to the office that prosecuted the case, which shall be the respondent in the matter. The petition shall be filed in the Criminal Division of the unit where the offense or the adjudication occurred.

(2) The court may grant a petition filed under this section without hearing if neither the State's Attorney nor the Attorney General files an objection within 30 days after receiving notice of the petition or if the petitioner and the respondent stipulate to the granting of the petition.

(3) In determining a petition filed under this section, unless the petition is granted pursuant to subdivision (2) of this subsection, the court may consider any relevant factors, including:

(A) whether the person committed any subsequent animal cruelty offenses or other criminal offenses;

(B) whether the person successfully completed any required conditions of probation;

(C) whether the person completed animal cruelty prevention programs or educational programs, and whether the programs were approved by the Director of Animal Welfare; and

(D) whether the person obtained psychiatric, psychological, or mental health counseling from a licensed clinician.

(4) The court shall grant a petition filed under this section if it finds that the petitioner has demonstrated by a preponderance of the evidence that the interests of justice are no longer served by prohibiting the petitioner from owning, possessing, caring for, residing with, having custody of, or working with an animal.

(5) If a petition filed under this section is granted, the court shall vacate the order prohibiting the person from owning, possessing, caring for, residing with, having custody of, or working with an animal.

(6) If the court denies the petition, the petitioner may appeal the denial to the Vermont Supreme Court. The appeal shall be on the record.

(7) If the court denies a petition filed under this section, no further petition shall be brought for at least two years, unless a shorter duration is authorized by the court.

Sec. 5. 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, if practicable, be consulted prior to any enforcement action brought pursuant to this chapter that 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. Failure to

conduct the consultation shall not be grounds for dismissal of the enforcement action or exclusion of evidence.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal ~~being cruelly treated in violation of this chapter~~ pursuant to this subsection.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours, or as soon as reasonably practicable, by a veterinarian licensed to practice in the State of Vermont. Failure to have the animal examined and assessed within 72 hours, or as soon as reasonably practicable, shall not be grounds for dismissal of the enforcement action or exclusion of evidence.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Vermont Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the State when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont

~~must~~ shall, if practicable, accompany the humane officer during the execution of the search warrant. Failure to be accompanied by a veterinarian during the execution of the search warrant shall not be grounds for dismissal of the enforcement action or exclusion of evidence.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care and provided with necessary medical care until final disposition of the criminal charges except as provided in subsections ~~(d) through (h)~~ (d)–(l) of this section. The

custodial caretaker shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) ~~If an animal is seized under this section, the State may institute a civil proceeding for forfeiture of the animal in the territorial unit of the Criminal Division of the Superior Court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture if a criminal charge has been filed or a petition for forfeiture if no criminal charge has been filed, which shall be filed with the court and served upon the animal's owner. The civil forfeiture proceeding is intended to run independently from any criminal prosecution and shall not be delayed pending disposition of any criminal proceeding.~~

~~(e)(1) A preliminary hearing shall be held within 21 days of institution of the civil forfeiture proceeding. If the defendant requests a hearing on the merits, the court shall schedule a final hearing on the merits to be held within 21 days of the date of the preliminary hearing. Time limits under this subsection shall not be construed as jurisdictional.~~

~~(2) If the defendant fails to respond to the notice for preliminary hearing, the court shall enter a default judgment ordering the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title. A motion to reopen a default judgment shall be filed in writing with the court~~

~~no later than 30 days after entry of a default judgment. A default judgment shall not be reopened unless good cause is shown.~~

~~(f)(1) At the hearing on the motion for forfeiture, the State shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the State meets its burden of proof, the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.~~

(1) Unless a person claiming an ownership interest in the animal requests a forfeiture hearing pursuant to subdivision (3)(A) of this subsection and posts security pursuant to subdivision (3)(B) of this subsection or requests that the security be reduced or waived on the basis of financial hardship, title to an animal seized pursuant to subsection (b) of this section shall be forfeited pursuant to subsection 353(c) of this title 14 days after seizure if the procedures of this subsection are followed.

(2) The humane officer who seizes an animal pursuant to this section shall give notice of this section at the time of the seizure by delivering a copy of it to a person who is present and claims an ownership interest in the animal. The officer shall also give notice of this section by conspicuously posting a copy of it at the time of the seizure in a prominent and accessible place at the location where the animal is seized. For any person who is known to claim an

ownership interest in the animal and who is not present at the time of the seizure, the humane officer shall make reasonable efforts, within 96 hours following the seizure, to give notice of this section by personal service or by registered mail addressed to the last known address of the person. The notice shall include:

(A) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the contact information for the authority with legal custody of the animal;

(B) a statement that any person claiming an ownership interest in the animal at the time of seizure may post security and request a forfeiture hearing concerning the seizure and that failure to do so within 14 days following the date of the seizure will result in forfeiture of title and disposition of the animal;

(C) a statement of the amount due as security and how to pay it;

(D) a statement that the security required by this section may be reduced or waived by the court on the basis of financial hardship to the defendant; and

(E) a form that may be used to request a forfeiture hearing under subdivision (3)(A) of this subsection (d) and a financial hardship exemption under subsection (j) of this section.

(3)(A) The court shall hold a forfeiture hearing if a request is made within 14 days after the seizure by a person claiming an ownership interest in

the animal at the time of the seizure. If the defendant has requested that the security be reduced or waived on the basis of financial hardship, the court shall grant or deny the request at or before the hearing. The hearing shall be held within 30 days after the request, unless the 30-day period is extended by the court for good cause shown, in the territorial unit of the Criminal Division of the Superior Court where the offense is alleged to have occurred.

(B) A person who requests a forfeiture hearing pursuant to this subdivision (3) shall post security in an amount needed to cover food and necessary veterinary care for the animal for an initial 40-day period, with an additional amount equal to the estimated cost of care and keeping of the animal for a subsequent 30-day period due every 30 days thereafter until the owner relinquishes the animal or until the court issues an order of forfeiture. The initial security shall be posted within 14 days following the seizure unless the person requests that the security be reduced or waived by the court on the basis of financial hardship. The court shall collect and transfer the security to the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203. The Director of Animal Welfare shall make payment, not to exceed the security received, to the custodial caretaker upon receipt of proof of expenditure of funds by the caretaker for food and necessary veterinary care for the animal.

(C) The State shall have the burden of establishing by a preponderance of the evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 352 or 352a of this title. The

court shall make findings of fact and conclusions of law and shall issue a final order promptly. The findings shall include the total amount of all costs incurred by the custodial caretaker and the amount the person claiming an interest in the animal is able to pay. If the State meets its burden of proof, the court shall order the immediate forfeiture of the animal, and any offspring of the animal that were born while the animal was in custody, in accordance with the provisions of subsection 353(c) of this title.

(D) Notwithstanding subdivision (B) of this subdivision (d)(3), the court may order the animal returned to the petitioner if the court finds by a preponderance of the evidence that the petitioner:

(i) is not the defendant in a cruelty case involving the animal;

(ii) did not participate in or expressly or impliedly consent to the alleged cruel treatment of the animal;

(iii) did not have any express or implied knowledge that the defendant was likely to treat the animal cruelly; and

(iv) will provide adequate care to the animal if it is returned, including any immediately necessary veterinary care or follow-up care needed in connection with the reason for seizure.

~~(2)~~(E) Affidavits of law enforcement officers, humane officers, animal control officers, veterinarians, or expert witnesses of either party shall be admissible evidence that may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five business days

prior to the hearing. Upon request of the other party or the court made at least two business days prior to the hearing, the party offering an affidavit shall make the affiant available by telephone at the hearing. The court may allow any witness to testify ~~by telephone~~ remotely in lieu of a personal appearance and shall adopt rules with respect to such testimony.

~~(3)~~(F) No testimony or other information presented by the defendant in connection with a forfeiture proceeding under this section or any information directly or indirectly derived from such testimony or other information may be used for any purpose, including impeachment and cross-examination, against the defendant in any criminal case, except a prosecution for perjury or giving a false statement.

(G) The rules of evidence shall apply in the forfeiture hearing unless otherwise provided by this section.

(e) If an order of forfeiture is not entered after the hearing, the animal shall be returned to the person claiming an interest in the animal upon payment to the custodial caretaker of all actual costs of care and keeping during the period of impound, including veterinary care, less any security paid, provided that the payment of costs shall not be required if the court finds that there was no reasonable basis for the seizure. If payment of the costs required by this subsection is not made within 14 days after the final order, the custodial caretaker's costs, not to exceed the amount of remaining security posted pursuant to subdivision (d)(3)(B) of this section, shall be reimbursed from the

Animal Welfare Fund established pursuant to 20 V.S.A. § 3203, and title to the animal shall be forfeited unless a financial hardship reduction or waiver request is pending or has been granted.

~~(g)(1)~~(f) If ~~the defendant is convicted of criminal charges under this chapter or if~~ an order of forfeiture is entered against an owner under this section, the security posted pursuant to this section shall be applied to the actual costs incurred by the custodial caretaker in caring for and keeping the animal through the date of forfeiture, including food, boarding, and the cost of any veterinary services. Any excess shall be returned to the person who posted the security. The defendant or owner shall be required to repay all reasonable costs incurred by the custodial caretaker for caring for the animal, including veterinary expenses. The Restitution Unit within the Center for Crime Victim Services is authorized to collect the funds owed by the defendant or owner on behalf of the custodial caretaker or a governmental agency that has contracted or paid for custodial care in the same manner as restitution is collected pursuant to section 7043 of this title. The restitution order shall include the information required under subdivision 7043(e)(2)(A) of this title. ~~The court shall make findings with respect to the total amount of all costs incurred by the custodial caregiver.~~

~~(2)(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless~~

~~the State institutes a civil forfeiture proceeding under this section within seven business days of the acquittal.~~

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

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

~~(h)~~(g)(1) A forfeiture order issued under this section may be appealed as a matter of right to the Supreme Court if a notice of appeal is filed within seven days after the order is issued and the appellant posts security pursuant to subdivision (2) of this subsection. The order shall not be stayed pending appeal.

(2) The appellant shall post security in an amount needed to cover food and necessary veterinary care for the animal for an initial 40-day period from the date that the forfeiture order was issued, with an additional amount equal to the estimated cost of care and keeping of the animal for a subsequent 30-day period due every 30 days thereafter until the owner relinquishes the animal or until final disposition of the case. Failure to timely pay the full amount shall result in forfeiture to title to the animal unless a financial hardship reduction or

waiver request is pending or has been granted. The court shall collect and transfer the security to the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203. The Director of Animal Welfare shall make payment, not to exceed the security received, to the custodial caretaker upon receipt of proof of expenditure of funds by the caretaker for food and necessary veterinary care for the animal.

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

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

(j) The security required by this section may be reduced or waived by the court on the basis of financial hardship to the defendant.

(k) A humane officer or animal shelter or rescue organization shall be immune from civil or criminal liability for seizing or providing care or treatment to an animal in good faith reliance on the provisions of this section. This subsection shall not apply to gross negligence or intentional misconduct by the humane officer or animal shelter or rescue organization.

(l) This section shall not be construed to limit or infringe upon any other rights or remedies available under common law or any other provision of law or rule.

Sec. 6. 20 V.S.A. § 3202 is amended to read:

§ 3202. ESTABLISHMENT OF DIVISION OF ANIMAL WELFARE; POWERS AND DUTIES

* * *

(e) The Division of Animal Welfare shall adopt rules pursuant to 3 V.S.A. chapter 25 to:

(1) provide for the receipt and management of security posted in animal forfeiture proceedings and transferred to the Fund by the court pursuant to 13 V.S.A. § 354(d)(3)(B) and 13 V.S.A. § 354(g)(2); and

(2) make distributions and reimbursements from the Fund for the purposes authorized by 13 V.S.A. § 354.

Sec. 7. 20 V.S.A. § 3203 is amended to read:

§ 3203. ANIMAL WELFARE FUND

(a) The Animal Welfare Fund is established within the Department of Public Safety to fund the expenses incurred by the Division of Animal Welfare in implementing the requirements of this chapter. The Director of Animal Welfare shall administer the Fund.

(b) The Fund shall consist of:

(1) 67 percent of the revenue collected from the surcharge assessed under subsection 3581(f) of this title; ~~and~~

(2) appropriations made by the General Assembly; and

(3) security posted in animal forfeiture proceedings and transferred to the Fund by the court pursuant to 13 V.S.A. § 354(d)(3)(B) and 13 V.S.A. § 354(g)(2).

(c) All balances in the Fund at the end of the fiscal year shall be carried forward. Interest earned by the Fund shall remain in the Fund.

(d) The Director of Animal Welfare shall have the authority to make distributions and reimbursements from the Fund for the purposes authorized by 13 V.S.A. § 354.

Sec. 8. TRANSITION; SECURITY AMOUNT

(a) On or before December 1, 2026, the Director of Animal Welfare shall report to the House Committees on Judiciary and on Ways and Means and the Senate Committees on Finance and on Judiciary on the proposed amount of the security and the proposed payment schedule, including proposed statutory language. Until legislation establishing the amount of the security and the payment schedule takes effect, the amount of security under 13 V.S.A. § 354(d) and (g) shall be required pursuant to this section.

(b) For all animals other than livestock, including domestic pets and poultry, security shall be required in the amount of:

(1) $1.00 per animal per day for food; and

(2) if the seizing officer determines that immediate veterinary care is required to protect the animal's health or safety, $250.00 per animal for veterinary services.

(c) For livestock, security shall be required in the amount of:

(1) $2.50 per animal per day for food; and

(2) if the seizing officer determines that immediate veterinary care is required to protect the animal's health or safety, $500.00 per animal for veterinary services.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2026.

Date Governor signed bill: June 8, 2026