

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

H.578

An act relating to penalties and procedures for animal cruelty offenses

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.

\* \* \*

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

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

9           § 352. CRUELTY TO ANIMALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (13) Knowingly refuses to comply with a court order issued pursuant to  
2           subdivision 351(b)(1)(E) of this title to permit periodic unannounced visits by  
3           a humane officer.

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

5           § 352a. AGGRAVATED CRUELTY TO ANIMALS

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

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

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

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

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

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

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

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

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

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

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

13       Sec. 4. 13 V.S.A. § 353 is amended to read:

14       § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

15       (a) Penalties.

16           (1) Except as provided in subdivision (3), (4), or (5) of this subsection,  
17       cruelty to animals under section 352 of this title shall be punishable by a  
18       sentence of imprisonment of not more than one year or a fine of not more than  
19       \$2,000.00, or both. Second and subsequent convictions shall be punishable by  
20       a sentence of imprisonment of not more than two years or a fine of not more  
21       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~~ 10 years or a  
5           fine 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 (A) 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 (B) shall be assessed a civil penalty  
20          of not more than \$500.00. At any time prior to the person admitting the  
21          violation and paying the assessed penalty, the State's Attorney may withdraw

1 the 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 (4) 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)(1) In addition to any other sentence the court may impose, the court  
13 may require a defendant convicted of a violation under section 352 or 352a of  
14 this title to:

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

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

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

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

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

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

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

1                   (III) ~~obtain~~ undergo a psychiatric or psychological counseling,  
2 evaluation, and, if the screening indicates that therapy is needed, obtain  
3 psychiatric, psychological, or mental health treatment with a licensed clinician,  
4 remotely or within a reasonable distance from the defendant's residence. If a  
5 juvenile is adjudicated delinquent under section 352 or 352a of this title, the  
6 court may order the juvenile to undergo a psychiatric or psychological  
7 evaluation and to participate in treatment that the court determines to be  
8 appropriate after due consideration of the evaluation. The court may impose  
9 the costs of such programs or counseling upon the defendant when appropriate.

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

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

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

4                   (A) For a second or subsequent violation, forfeit any rights to the  
5                   animal subjected to cruelty, and to any other animal possessed, residing or  
6                   domiciled with, or in the custody of the defendant. Livestock or poultry shall  
7                   not be subject to forfeiture under this subdivision (A) unless the person was  
8                   convicted of abusing livestock or poultry.

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

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

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

19                  (c) Upon an order of forfeiture of an animal under this section or section  
20                  354 of this title, the court shall order custody of the animal remanded to a  
21                  humane society or other individual deemed appropriate by the court, for further

1 disposition in accordance with accepted practices for humane treatment of  
2 animals. A transfer of rights under this section constitutes a transfer of  
3 ownership and shall not constitute or authorize any limitation upon the right of  
4 the humane society, individual, or other entity, to whom rights are granted to  
5 dispose of the animal.

6 (d)(1) A person who is prohibited from owning, possessing, caring for,  
7 residing with, having custody of, or working with an animal by an order issued  
8 pursuant to subdivision (b)(1)(C) or (b)(2) of this section may petition the  
9 court for an order that the person be relieved from the prohibition imposed by  
10 that section. When the petition is filed, the petitioner shall provide notice and  
11 a copy of the petition to the office that prosecuted the case, who shall be the  
12 respondent in the matter. The petition shall be filed in the Criminal Division of  
13 the unit where the offense or the adjudication occurred.

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

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

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

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

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

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

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

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

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

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

4           Sec. 5. 13 V.S.A. § 354 is amended to read:

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

7           (a) The Secretary of Agriculture, Food and Markets shall be consulted prior  
8           to any enforcement action brought pursuant to this chapter that involves  
9           livestock and poultry. Law enforcement may consult with the Secretary in  
10          person or by electronic means, and the Secretary shall assist law enforcement  
11          in determining whether the practice or animal condition, or both, represent  
12          acceptable livestock or poultry husbandry practices. Failure to conduct the  
13          consultation shall not be grounds for dismissal of the enforcement action.

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

18                 (1) Voluntary surrender. A humane officer may accept animals  
19          voluntarily surrendered by the owner anytime during the cruelty investigation.  
20          The humane officer shall have a surrendered animal examined and assessed  
21          within 72 hours by a veterinarian licensed to practice in the State of Vermont.

1           (2) Search and seizure using a search warrant. A humane officer having  
2           probable cause to believe an animal is being subjected to cruel treatment in  
3           violation of this subchapter may apply for a search warrant pursuant to the  
4           Vermont Rules of Criminal Procedure to authorize the officer to enter the  
5           premises where the animal is kept and seize the animal. The application and  
6           affidavit for the search warrant shall be reviewed and authorized by an attorney  
7           for the State when sought by an officer other than an enforcement officer  
8           defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont  
9           ~~must~~ shall, if practicable, accompany the humane officer during the execution  
10          of the search warrant. Failure to be accompanied by a veterinarian during the  
11          execution of the search warrant shall not be grounds for dismissal of the  
12          enforcement action.

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

20          (c) A humane officer shall provide suitable care at a reasonable cost for an  
21          animal seized under this section, and have a lien on the animal for all expenses

1 incurred. A humane officer may arrange for the euthanasia of a severely  
2 injured, diseased, or suffering animal upon the recommendation of a licensed  
3 veterinarian. A humane officer may arrange for euthanasia of an animal seized  
4 under this section when the owner is unwilling or unable to provide necessary  
5 medical attention required while the animal is in custodial care or when the  
6 animal cannot be safely confined under standard housing conditions. An  
7 animal not destroyed by euthanasia shall be kept in custodial care and provided  
8 with necessary medical care until final disposition of the criminal charges  
9 except as provided in subsections ~~(d) through (h)~~ (d)–(l) of this section. The  
10 custodial caregiver shall be responsible for maintaining the records applicable  
11 to all animals seized, including identification, residence, location, medical  
12 treatment, and disposition of the animals.

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

1       ~~(e)(1) A preliminary hearing shall be held within 21 days of institution of~~  
2       ~~the civil forfeiture proceeding. If the defendant requests a hearing on the~~  
3       ~~merits, the court shall schedule a final hearing on the merits to be held within~~  
4       ~~21 days of the date of the preliminary hearing. Time limits under this~~  
5       ~~subsection shall not be construed as jurisdictional.~~

6       ~~(2) If the defendant fails to respond to the notice for preliminary hearing,~~  
7       ~~the court shall enter a default judgment ordering the immediate forfeiture of~~  
8       ~~the animal in accordance with the provisions of subsection 353(c) of this title.~~  
9       ~~A motion to reopen a default judgment shall be filed in writing with the court~~  
10      ~~no later than 30 days after entry of a default judgment. A default judgment~~  
11      ~~shall not be reopened unless good cause is shown.~~

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

19      (1) Unless a person claiming a legal interest in the animal requests a  
20      forfeiture hearing pursuant to subdivision (3)(A) of this subsection and posts  
21      security pursuant to subdivision (3)(B) of this subsection or requests that the

1 security be reduced or waived on the basis of financial hardship, title to an  
2 animal seized pursuant to subsection (b) of this section shall be forfeited  
3 pursuant to subsection 353(c) of this title 14 days after seizure if the  
4 procedures of this subsection are followed.

5 (2) The humane officer who seizes an animal pursuant to this section  
6 shall give notice of this section at the time of the seizure by delivering a copy  
7 of it to a person who is present and claims a legal interest in the animal. Any  
8 person who is known to claim a legal interest in the animal who is not present  
9 shall be served with the notice by conspicuously posting it in a prominent and  
10 accessible place at the location where the animal is seized. The notice shall  
11 include:

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

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

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

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

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

8           (3)(A) The court shall hold a forfeiture hearing if a request is made  
9 within 14 days after the seizure by a person claiming a legal interest in the  
10 animal at the time of the seizure. If the defendant has requested that the  
11 security be reduced or waived on the basis of financial hardship, the court shall  
12 grant or deny the request at or before the hearing. The hearing shall be held  
13 within 30 days after the request, unless the 30-day period is extended by the  
14 court for good cause shown, in the territorial unit of the Civil Division of the  
15 Superior Court where the offense is alleged to have occurred.

16           (B) A person who requests a forfeiture hearing pursuant to this  
17 subdivision (3) shall post security in an amount needed to cover food and  
18 necessary veterinary care for the animal for an initial 40-day period, with an  
19 additional amount equal to the estimated cost of care and keeping of the animal  
20 for a subsequent 30-day period due every 30 days thereafter until the owner  
21 relinquishes the animal or until the court issues an order of forfeiture. The

1 amount of the security and the payment schedule shall be set in rules adopted  
2 by the Director of Animal Welfare pursuant to 20 V.S.A. § 3202(e). The  
3 security shall be posted within 14 days following the seizure unless the person  
4 requests that the security be reduced or waived by the court on the basis of  
5 financial hardship. The court shall collect and transfer the security to the  
6 Animal Welfare Fund established pursuant to 20 V.S.A. § 3203.

7 (C) The State shall have the burden of establishing by a  
8 preponderance of the evidence that the animal was subjected to cruelty,  
9 neglect, or abandonment in violation of section 352 or 352a of this title. The  
10 court shall make findings of fact and conclusions of law and shall issue a final  
11 order promptly. The findings shall include the total amount of all costs  
12 incurred by the custodial caregiver. If the State meets its burden of proof, the  
13 court shall order the immediate forfeiture of the animal, and any offspring of  
14 the animal that were born while the animal was in custody, in accordance with  
15 the provisions of subsection 353(c) of this title.

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

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

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

1                    (iii) did not have any express or implied knowledge that the  
2                    defendant was likely to treat the animal cruelly; and  
3                    (iv) will provide adequate care to the animal if it is returned,  
4                    including any immediately necessary veterinary care or follow-up care needed  
5                    in connection with the reason for seizure.

6                    ~~(2)~~(E) Affidavits of law enforcement officers, humane officers, animal  
7                    control officers, veterinarians, or expert witnesses of either party shall be  
8                    admissible evidence that may be rebutted by witnesses called by either party.  
9                    The affidavits shall be delivered to the other party at least five business days  
10                   prior to the hearing. Upon request of the other party or the court made at least  
11                   two business days prior to the hearing, the party offering an affidavit shall  
12                   make the affiant available by telephone at the hearing. The court may allow  
13                   any witness to testify ~~by telephone~~ remotely in lieu of a personal appearance  
14                   and shall adopt rules with respect to such testimony.

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

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

3           (e) If an order of forfeiture is not entered after the hearing, the animal shall  
4           be returned to the person claiming an interest in the animal upon payment to  
5           the custodial caretaker of all actual costs of care and keeping during the period  
6           of impound, including veterinary care, provided that the payment of costs shall  
7           not be required if the court finds that there was no reasonable basis for the  
8           seizure. If payment of the costs required by this subsection is not made within  
9           14 days after the final order, the custodial caretaker's costs, not to exceed the  
10           amount of security posted pursuant to subdivision (d)(3)(B) of this section,  
11           shall be reimbursed from the Animal Welfare Fund established pursuant to 20  
12           V.S.A. § 3203.

13           ~~(g)(1)(f)~~ If the defendant is convicted of criminal charges under this chapter  
14           ~~or~~ if an order of forfeiture is entered against an owner under this section, the  
15           security posted pursuant to this section shall be applied to the actual costs  
16           incurred by the custodial caretaker in caring and keeping the animal through  
17           the date of forfeiture, including food, boarding, and the cost of any veterinary  
18           services. Any excess shall be returned to the person who posted the security.  
19           The defendant or owner shall be required to repay all reasonable costs incurred  
20           by the custodial caregiver for caring for the animal, including veterinary  
21           expenses. The Restitution Unit within the Center for Crime Victim Services is

1 authorized to collect the funds owed by the defendant or owner on behalf of  
2 the custodial caregiver or a governmental agency that has contracted or paid  
3 for custodial care in the same manner as restitution is collected pursuant to  
4 section 7043 of this title. The restitution order shall include the information  
5 required under subdivision 7043(e)(2)(A) of this title. ~~The court shall make~~  
6 ~~findings with respect to the total amount of all costs incurred by the custodial~~  
7 ~~caregiver.~~

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

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

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

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

6           (2) The appellant shall post security in an amount needed to cover food  
7 and necessary veterinary care for the animal for an initial 40-day period from  
8 the date that the forfeiture order was issued, with an additional amount equal to  
9 the estimated cost of care and keeping of the animal for a subsequent 30-day  
10 period due every 30 days thereafter until the owner relinquishes the animal or  
11 until final disposition of the case. The amount of the security and the payment  
12 schedule shall be set in rules adopted by the Director of Animal Welfare  
13 pursuant to 20 V.S.A. § 3202(e). The court shall collect and transfer the  
14 security to the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203.

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

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



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

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

4           § 3203. ANIMAL WELFARE FUND

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

9           (b) The Fund shall consist of:

10           (1) 67 percent of the revenue collected from the surcharge assessed  
11           under subsection 3581(f) of this title; ~~and~~

12           (2) appropriations made by the General Assembly; and

13           (3) security posted in animal forfeiture proceedings and transferred to  
14           the Fund by the court pursuant to 13 V.S.A. § 354(d)(3)(B) and 13 V.S.A.  
15           § 354(g)(2).

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

18           (d) The Director of Animal Welfare shall have the authority to make  
19           distributions and reimbursements from the Fund for the purposes authorized by  
20           13 V.S.A. § 354.

1      Sec. 8. EFFECTIVE DATE

2      This act shall take effect on July 1, 2026.