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2 Introduced by Senator Williams
3 Referred to Committee on
4 Date:
5 Subject: Criminal procedures; animal cruelty; forfeiture
6 Statement of purpose of bill as introduced: This bill proposes to expedite the
7 procedures for forfeiture of animals that are subject to seizure as a result of
8 animal cruelty violations and to expand the use of the Animal Welfare Fund to
9 provide reimbursement for the costs of caring for seized animals.

10 An act relating to animal cruelty violation forfeitures and the Animal
11 Welfare Fund

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

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

14 § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

15 (a) Penalties.

1 a sentence of imprisonment of not more than two years or a fine of not more
2 than \$5,000.00, or both.

3 (2) Aggravated cruelty under section 352a of this title shall be
4 punishable by a sentence of imprisonment of not more than five years or a fine
5 of not more than \$5,000.00, or both. Second and subsequent offenses shall be
6 punishable by a sentence of imprisonment of not more than ~~ten~~ 10 years or a
7 fine of not more than \$7,500.00, or both.

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

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

17 (B) In lieu of a criminal citation or arrest, a law enforcement officer
18 may issue a civil citation to a person who violates subdivision 352(3), (4), or
19 (9) of this title if the person has not been previously adjudicated in violation of
20 this chapter. A person adjudicated in violation of subdivision 352(3), (4), or
21 (9) of this title pursuant to this subdivision shall be assessed a civil penalty of

1 not more than \$500.00. At any time prior to the person admitting the violation
2 and paying the assessed penalty, the State's Attorney may withdraw the
3 complaint filed with the Judicial Bureau and file an information charging a
4 violation of subdivision 352(3), (4), or (9) of this title in the Criminal Division
5 of the Superior Court.

6 (C) Nothing in this subdivision shall be construed to require that a
7 civil citation be issued prior to a criminal charge of violating subdivision
8 352(3), (4), or (9) of this title.

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

14 * * *

15 (c) Upon an order of forfeiture of an animal under this section or section
16 354 of this title, the court shall order custody of the animal remanded to a
17 humane society or other individual deemed appropriate by the court, for further
18 disposition in accordance with accepted practices for humane treatment of
19 animals. A transfer of rights under this section constitutes a transfer of
20 ownership and shall not constitute or authorize any limitation upon the right of

1 the humane society, individual, or other entity, to whom rights are granted to
2 dispose of the animal.

10 Sec. 2. 13 V.S.A. § 354 is amended to read:

11 § 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;

12 SEARCHES AND SEIZURES; FORFEITURE

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

15 (d) If an animal is seized under this section, the State may institute a civil
16 proceeding for forfeiture of the animal in the territorial unit of the Criminal
17 Division of the Superior Court where the offense is alleged to have occurred.
18 The proceeding shall be instituted by a motion for forfeiture if a criminal
19 charge has been filed or a petition for forfeiture if no criminal charge has been
20 filed, which shall be filed with the court and served upon the animal's owner.
21 The civil forfeiture proceeding is intended to run independently from any

1 ~~erimnal prosecution and shall not be delayed pending disposition of any~~
2 ~~erimnal proceeding.~~

3 ~~(e)(1) A preliminary hearing shall be held within 21 days of institution of~~
4 ~~the civil forfeiture proceeding. If the defendant requests a hearing on the~~
5 ~~merits, the court shall schedule a final hearing on the merits to be held within~~
6 ~~21 days of the date of the preliminary hearing. Time limits under this~~
7 ~~subsection shall not be construed as jurisdictional.~~

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

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

1 (1) Unless a person claiming a legal interest in the animal requests a
2 hearing pursuant to subdivision (4)(A) of this subsection, title to an animal
3 seized pursuant to section 353 of this title shall be forfeited pursuant to
4 subsection 353(c) of this title 20 days after seizure if the procedures of this
5 subsection are followed. The computation of the 20-day period shall include
6 the day on which the animal is seized.

7 (2) A person claiming a legal interest in the seized animal at the time of
8 the seizure who requests a hearing pursuant to subdivision (4)(A) of this
9 subsection shall post security in an amount typically needed to cover food for
10 that species of animal for an initial 40-day period. The amount of the security
11 shall be set pursuant to an administrative schedule published by the Director of
12 Animal Welfare. The security shall be posted within 10 days following the
13 seizure, and the computation of the 10-day period shall include the day on
14 which the animal is seized. The court shall collect and transfer the security to
15 the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203.

16 (3) The humane officer who seizes an animal pursuant to this section
17 shall give notice of this section at the time of the seizure by delivering a copy
18 of it to a person who is present and claims a legal interest in the animal or by
19 posting a copy of it at the place where the animal was seized. Any person who
20 is known to claim a legal interest in the animal who is not present shall be

1 provided with the notice by personal delivery or by certified mail as soon as
2 reasonably possible after the person is identified. The notice shall include:

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

7 (B) a statement that any person claiming a legal interest in the animal
8 at the time of seizure may post security and request a hearing concerning the
9 seizure and that failure to do so within 10 days following the date of the notice
10 will result in forfeiture of title and disposition of the animal;

11 (C) a statement of the amount due as security and how to pay it; and
12 (D) instructions for accessing the form that may be used to request a
13 hearing under this subsection (d).

14 (4)(A) The court shall hold a due process hearing if a request is made
15 within 10 days after the seizure by a person claiming a legal interest in the
16 animal at the time of the seizure. The hearing shall be held within 30 days
17 after the request in the territorial unit of the Criminal Division of the Superior
18 Court where the offense is alleged to have occurred.

19 (B) The State shall have the burden of establishing by clear and
20 convincing evidence that the animal was subjected to cruelty, neglect, or
21 abandonment in violation of section 352 or 352a of this title. The court shall

1 make findings of fact and conclusions of law and shall issue a final order
2 within five business days after the hearing. The findings shall include the total
3 amount of all costs incurred by the custodial caregiver. If the State meets its
4 burden of proof, the court shall order the immediate forfeiture of the animal in
5 accordance with the provisions of subsection 353(c) of this title.

6 (C) Notwithstanding subdivision (B) of this subdivision (d)(4) the
7 court may order the animal returned to the petitioner if the court finds by a
8 preponderance of the evidence that the petitioner:

9 (i) is not the defendant in a cruelty case involving the animal;
10 (ii) did not participate in or expressly or implicitly consent to the
11 alleged cruel treatment of the animal;
12 (iii) did not have any express or implied knowledge that the
13 defendant was likely to treat the animal cruelly; and
14 (iv) will provide adequate care to the animal if it is returned,
15 including any immediately necessary veterinary care or follow-up care needed
16 in connection with the reason for seizure.

17 (2)(D) Affidavits of law enforcement officers, humane officers,
18 animal control officers, veterinarians, or expert witnesses of either party shall
19 be admissible evidence that may be rebutted by witnesses called by either
20 party. The affidavits shall be delivered to the other party at least five business
21 days prior to the hearing. Upon request of the other party or the court, the

1 party offering an affidavit shall make the affiant available by telephone at the
2 hearing. The court may allow any witness to testify by telephone in lieu of a
3 personal appearance and shall adopt rules with respect to such testimony.

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

10 (e) If an order of forfeiture is not entered after the hearing, the animal shall
11 be returned to the person claiming an interest in the animal upon payment to
12 the custodial caretaker of all actual costs of care and keeping during the period
13 of impound, including veterinary care, provided that the payment of costs shall
14 not be required if the court finds that there was no reasonable basis for the
15 seizure. If payment of the costs required by this subsection is not made within
16 15 days after the final order, the custodial caretaker's costs shall be reimbursed
17 from the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203.

18 ~~(g)(1)(f) If the defendant is convicted of criminal charges under this chapter~~
19 ~~or if an order of forfeiture is entered against an owner under this section, the~~
20 ~~security posted pursuant to this section shall be applied to the actual costs~~
21 ~~incurred by the custodial caretaker in caring and keeping the animal through~~

1 the date of forfeiture, including food, boarding, and the cost of any veterinary
2 services. Any excess shall be returned to the person who posted the security.
3 The defendant or owner shall be required to repay all reasonable costs incurred
4 by the custodial caregiver for caring for the animal, including veterinary
5 expenses. The Restitution Unit within the Center for Crime Victim Services is
6 authorized to collect the funds owed by the defendant or owner on behalf of
7 the custodial caregiver or a governmental agency that has contracted or paid
8 for custodial care in the same manner as restitution is collected pursuant to
9 section 7043 of this title. The restitution order shall include the information
10 required under subdivision 7043(e)(2)(A) of this title. The court shall make
11 findings with respect to the total amount of all costs incurred by the custodial
12 caregiver.

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

18 (B) If the court rules in favor of the owner in a civil forfeiture
19 proceeding under this section and criminal charges against the owner under
20 this chapter are not pending, an animal that has been taken into custodial care

1 shall be returned to the owner unless the State files criminal charges under this
2 section within seven business days after the entry of final judgment.

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

6 ~~(h)(g)(1) A forfeiture order issued under this section may be appealed as a~~
7 ~~matter of right to the Supreme Court within 10 days after the appellant posts~~
8 ~~security pursuant to subdivision (2) of this subsection. The order shall not be~~
9 ~~stayed pending appeal.~~

10 (2) The appellant shall post security in an amount typically needed to
11 cover costs and keeping for that species of animal from the time of impound
12 through the date of filing and an amount equal to the estimated cost of care and
13 keeping of the animal for a subsequent 30-day period, with an additional 30-
14 day cost and keeping allotment due every 30 days thereafter until the owner
15 relinquishes the animal or until final disposition of the case. The amount of the
16 security shall be set pursuant to an administrative schedule published by the
17 Director of Animal Welfare. The court shall collect and transfer the security to
18 the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203.

19 (3) An appeal brought pursuant to this section shall be heard on an
20 expedited timeline, and the final decision shall be issued within five business
21 days after the hearing, if any.

1 (4) Upon payment of the security required by this subsection, the
2 custodial caretaker may immediately begin to draw from those funds for
3 reimbursement of the actual costs incurred in caring for the animal from the
4 date of impoundment. Upon final disposition of the case, funds remaining
5 after payment of actual costs shall be refunded to the owner.

6 (f)(h) The provisions of this section are in addition to and not in lieu of the
7 provisions of section 353 of this title.

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

12 (j)(1) The time limits established in this section are not jurisdictional and
13 may be extended by the court for good cause shown.

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

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

17 § 3203. ANIMAL WELFARE FUND

18 (a) The Animal Welfare Fund is established within the Department of
19 Public Safety to fund the expenses incurred by the Division of Animal Welfare
20 in implementing the requirements of this chapter and to provide reimbursement

1 for the costs of caring for animals seized pursuant to 13 V.S.A. chapter 8. The
2 Director of Animal Welfare shall administer the Fund.

3 (b) The Fund shall consist of:

4 (1) 67 percent of the revenue collected from the surcharge assessed

5 under subsection 3581(f) of this title;

6 (2) fees imposed by the court clerk and designated for deposit into the
7 Fund pursuant to 13 V.S.A. § 353(d);

8 (3) restitution as ordered by the court pursuant to 13 V.S.A. § 354;

9 (4) security posted by defendants pursuant to 13 V.S.A. § 354; and

10 (2)(5) appropriations made by the General Assembly.

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

13 Sec. 4. EFFECTIVE DATE

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