

1 TO THE HOUSE OF REPRESENTATIVES:

2        The Committee on Judiciary to which was referred House Bill No. 578  
3        entitled "An act relating to penalties and procedures for animal cruelty  
4        offenses" respectfully reports that it has considered the same and recommends  
5        that the bill be amended by striking out all after the enacting clause and  
6        inserting in lieu thereof the following:

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

## 8        § 351. DEFINITIONS

9 As used in this chapter:

10 \* \* \*

11 (21) "Sexual conduct" means:

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

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

4 \* \* \*

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

## 6 § 352. CRUELTY TO ANIMALS

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

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

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

19 (5)(A) Owns, possesses, keeps, or trains an animal engaged in an  
20 exhibition of fighting; possesses, keeps, or trains any animal with intent that it

1       be engaged in an exhibition of fighting; or permits any such act to be done on  
2       premises under ~~his or her~~ the person's charge or control.

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

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

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

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

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

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.

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.

17 (12) Possesses an animal while the person is prohibited from possessing  
18 an animal by an order issued pursuant to subsection 353(b) of this title.

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

20 § 352a. AGGRAVATED CRUELTY TO ANIMALS

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

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

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

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

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

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

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

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

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

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

4                   (G) Possesses, films, or distributes visual images of sexual conduct  
5                   with an animal in the presence of a minor or in which the minor participates.

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

7                   § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

8                   (a) Penalties.

9                   (1) Except as provided in subdivision (3), (4), or (5) of this subsection,  
10                   cruelty to animals under section 352 of this title shall be punishable by a  
11                   sentence of imprisonment of not more than one year or a fine of not more than  
12                   \$2,000.00, or both. Second and subsequent convictions shall be punishable by  
13                   a sentence of imprisonment of not more than two years or a fine of not more  
14                   than \$5,000.00, or both.

15                   (2) Aggravated cruelty under section 352a of this title shall be  
16                   punishable by a sentence of imprisonment of not more than five years or a fine  
17                   of not more than \$5,000.00, or both. Second and subsequent offenses shall be  
18                   punishable by a sentence of imprisonment of not more than ~~ten~~ 10 years or a  
19                   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.

18                   **(2)(B)** Repay the reasonable costs incurred by any person,  
19                   municipality or agency for providing care for the animal prior to judgment. ~~If~~  
20                   ~~the court does not order a defendant to pay all the applicable costs incurred or~~

1       orders only partial payment, it shall state on the record the reasons for that  
2       action.

3                    (3)(C)(i) Forfeit For a first violation of section 352 of this title, forfeit  
4       any future right to own, possess, or care for any animal for a period that the  
5       court deems appropriate of not less than up to five years.

6                    (ii) For a first violation of section 352a of this title, forfeit any  
7       future right to own, possess, or care for any animal for a period of up to ten  
8       years.

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

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

20                   (5)(E) Permit periodic unannounced visits for a period up to one year by  
21       a humane officer to inspect the care and condition of any animal ~~permitted by~~

1 the court to remain in the care, custody, or possession of the defendant  
2 beginning after the end of the five-year prohibition to own, possess, or care for  
3 an animal for a period as described in subdivision (3) of this subsection. Such  
4 period may be extended by the court upon motion made by the State.

5 (F) Be prohibited from working in any capacity that requires the person  
6 to be in contact with an animal, including at a commercial boarding or training  
7 establishment, shelter, animal control facility, pet shop, grooming facility,  
8 commercial breeding service, veterinary hospital or clinic, animal welfare  
9 society, or any nonprofit organization incorporated for the purpose of  
10 providing for or promoting the welfare, protection, and humane treatment of  
11 animals.

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

15 (A) For a second or subsequent violation, forfeit any rights to the  
16 animal subjected to cruelty, and to any other animal, except livestock or  
17 poultry 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.

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

(d)(1) A person who is prohibited from owning, possessing, or caring for an animal by an order issued under 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 section. When the petition is filed, the

1 petitioner shall provide notice and a copy of the petition to the office that  
2 prosecuted the case, who shall be the respondent in the matter. The petition  
3 shall be filed in the Criminal Division of the unit where the offense or the  
4 adjudication occurred.

5 (2) The court shall grant a petition filed under this section without  
6 hearing if neither the State's Attorney nor the Attorney General files an  
7 objection within 30 days after receiving notice of the petition or if the  
8 petitioner and the respondent stipulate to the granting of the petition. If the  
9 court grants the petition pursuant to this subdivision, the court shall make  
10 findings and issue an order in accordance with this section.

11 (3) In determining a petition filed under this section, unless the petition  
12 is granted pursuant to subdivision (d)(2) of this subsection, the court may  
13 consider:

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

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

18 (C) whether the person participated in animal cruelty prevention  
19 programs or educational programs or obtained psychiatric or psychological  
20 counseling.

5                   (5) If a petition filed under this section is granted, the court shall enter  
6                   an order declaring that the order prohibiting the person from owning,  
7                   possessing, or caring for an animal no longer applies.

11 (7) If the court denies a petition filed under this section, no further  
12 petition shall be filed by the person until at least one year after the order of the  
13 trial court, or of the Supreme Court if an appeal is taken, becomes final.

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

15       § 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;

## 16 SEARCHES AND SEIZURES; FORFEITURE

17 (a) The Secretary of Agriculture, Food and Markets shall be consulted prior  
18 to any enforcement action brought pursuant to this chapter that involves  
19 livestock and poultry. Law enforcement may consult with the Secretary in  
20 person or by electronic means, and the Secretary shall assist law enforcement

1       in determining whether the practice or animal condition, or both, represent  
2       acceptable livestock or poultry husbandry practices.

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

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

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

20           (3) Seizure without a search warrant. If the humane officer witnesses a  
21       situation in which the humane officer determines that an animal's life is in

1 jeopardy and immediate action is required to protect the animal's health or  
2 safety, the officer may seize the animal without a warrant. The humane officer  
3 shall immediately take an animal seized under this subdivision to a licensed  
4 veterinarian for medical attention to stabilize the animal's condition and to  
5 assess the health of the animal.

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

20 (d) If an animal is seized under this section, the State may institute a civil  
21 proceeding for forfeiture of the animal in the territorial unit of the Criminal

1      ~~Division of the Superior Court where the offense is alleged to have occurred.~~  
2      ~~The proceeding shall be instituted by a motion for forfeiture if a criminal~~  
3      ~~charge has been filed or a petition for forfeiture if no criminal charge has been~~  
4      ~~filed, which shall be filed with the court and served upon the animal's owner.~~  
5      ~~The civil forfeiture proceeding is intended to run independently from any~~  
6      ~~criminal prosecution and shall not be delayed pending disposition of any~~  
7      ~~criminal proceeding.~~

8      ~~(e)(1) A preliminary hearing shall be held within 21 days of institution of~~  
9      ~~the civil forfeiture proceeding. If the defendant requests a hearing on the~~  
10     ~~merits, the court shall schedule a final hearing on the merits to be held within~~  
11     ~~21 days of the date of the preliminary hearing. Time limits under this~~  
12     ~~subsection shall not be construed as jurisdictional.~~

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

19     ~~(f)(1) At the hearing on the motion for forfeiture, the State shall have the~~  
20     ~~burden of establishing by clear and convincing evidence that the animal was~~  
21     ~~subjected to cruelty, neglect, or abandonment in violation of section 352 or~~

1 ~~352a of this title. The court shall make findings of fact and conclusions of law~~  
2 ~~and shall issue a final order. If the State meets its burden of proof, the court~~  
3 ~~shall order the immediate forfeiture of the animal in accordance with the~~  
4 ~~provisions of subsection 353(c) of this title.~~

5 (1) Unless a person claiming a legal interest in the animal requests a  
6 forfeiture hearing pursuant to subdivision (3)(A) of this subsection and posts  
7 security pursuant to subdivision (3)(B) of this subsection, title to an animal  
8 seized pursuant to subsection (b) of this section shall be forfeited pursuant to  
9 subsection 353(c) of this title 10 days after seizure if the procedures of this  
10 subsection are followed. The computation of the 10-day period shall include  
11 the day on which the animal is seized.

12 (2) The humane officer who seizes an animal pursuant to this section  
13 shall give notice of this section at the time of the seizure by delivering a copy  
14 of it to a person who is present and claims a legal interest in the animal. Any  
15 person who is known to claim a legal interest in the animal who is not present  
16 shall be served with the notice as provided for by Rule 4 of the Vermont Rules  
17 of Civil Procedure. The notice shall include:

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

13 (B) A person who requests a forfeiture hearing pursuant to this  
14 subdivision (3) of this subsection shall post security in an amount needed to  
15 cover food and necessary veterinary care for the animal for an initial 40-day  
16 period, with an additional amount equal to the estimated cost of care and  
17 keeping of the animal for a subsequent 30-day period due every 30 days  
18 thereafter until the owner relinquishes the animal or until the court issues an  
19 order of forfeiture. The amount of the security and the payment schedule shall  
20 be set in rules adopted by the Director of Animal Welfare pursuant to 20  
21 V.S.A. § 3202(e). The security shall be posted within 10 days following the

1 seizure, and the computation of the 10-day period shall include the day on  
2 which the animal is seized. The court shall collect and transfer the security to  
3 the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203.

4 (C) The State shall have the burden of establishing by a  
5 preponderance of the evidence that the animal was subjected to cruelty,  
6 neglect, or abandonment in violation of section 352 or 352a of this title. The  
7 court shall make findings of fact and conclusions of law and shall issue a final  
8 order within five business days after the hearing. The findings shall include  
9 the total amount of all costs incurred by the custodial caregiver. If the State  
10 meets its burden of proof, the court shall order the immediate forfeiture of the  
11 animal in accordance with the provisions of subsection 353(c) of this title.

12 (C) Notwithstanding subdivision (B) of this subdivision (d)(4) the  
13 court may order the animal returned to the petitioner if the court finds by a  
14 preponderance of the evidence that the petitioner:  
15 (i) is not the defendant in a cruelty case involving the animal;  
16 (ii) did not participate in or expressly or impliedly consent to the  
17 alleged cruel treatment of the animal;  
18 (iii) did not have any express or implied knowledge that the  
19 defendant was likely to treat the animal cruelly; and

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

19 (F) The rules of evidence shall apply in the forfeiture hearing except  
20 that hearsay shall be admissible.

1                   (e) If an order of forfeiture is not entered after the hearing, the animal shall  
2                   be returned to the person claiming an interest in the animal upon payment to  
3                   the custodial caretaker of all actual costs of care and keeping during the period  
4                   of impound, including veterinary care, provided that the payment of costs shall  
5                   not be required if the court finds that there was no reasonable basis for the  
6                   seizure. If payment of the costs required by this subsection is not made within  
7                   15 days after the final order, the custodial caretaker's costs, not to exceed the  
8                   amount of security posted pursuant to subdivision (d)(3)(B) of this section,  
9                   shall be reimbursed from the Animal Welfare Fund established pursuant to 20  
10                   V.S.A. § 3203.

11                   (g)(4)(f) If the defendant is convicted of criminal charges under this chapter  
12                   or if an order of forfeiture is entered against an owner under this section, the  
13                   security posted pursuant to this section shall be applied to the actual costs  
14                   incurred by the custodial caretaker in caring and keeping the animal through  
15                   the date of forfeiture, including food, boarding, and the cost of any veterinary  
16                   services. Any excess shall be returned to the person who posted the security.  
17                   The defendant or owner shall be required to repay all reasonable costs incurred  
18                   by the custodial caregiver for caring for the animal, including veterinary  
19                   expenses. The Restitution Unit within the Center for Crime Victim Services is  
20                   authorized to collect the funds owed by the defendant or owner on behalf of  
21                   the custodial caregiver or a governmental agency that has contracted or paid

1 for custodial care in the same manner as restitution is collected pursuant to  
2 section 7043 of this title. The restitution order shall include the information  
3 required under subdivision 7043(e)(2)(A) of this title. The court shall make  
4 findings with respect to the total amount of all costs incurred by the custodial  
5 caregiver.

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

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

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

19 (h)(g)(1) A forfeiture order issued under this section may be appealed as a  
20 matter of right to the Supreme Court if a notice of appeal is filed within 5 days

1 after the order is issued and the appellant posts security pursuant to subdivision

2 (2) of this subsection. The order shall not be stayed pending appeal.

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

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

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

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

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

5                   (k) Cost of care action. If an animal is seized under this section, the State  
6                   or custodial caregiver may commence a civil proceeding for reimbursement of  
7                   the reasonable cost of animal care in the unit of the Criminal Division of the  
8                   Superior Court where the offense is alleged to have occurred. The proceeding  
9                   shall be commenced by a petition for reimbursement of the cost of animal care,  
10                   which shall be filed with the court and served upon the animal's owner. The  
11                   civil cost of care proceeding is intended to run independently from any  
12                   criminal prosecution and shall not be delayed pending disposition of any  
13                   criminal proceedings.

14                   (l) Contents of cost of care motion or petition. The motion or petition  
15                   described in subsection (h) of this section shall contain a description of the  
16                   time, place, and circumstances of the seizure; the legal authority for the  
17                   seizure; and the name and address of the owner of the animal or animals  
18                   seized.

19                   (m) Service of process. Any humane officer as defined in section 351 of  
20                   this title shall personally serve written process of the motion or petition on the  
21                   owner of the animal or animals. If the officer is unable to personally serve

1       written process of the motion or petition on the owner of the animal or animals  
2       within 30 days after the date of filing the petition, the officer shall within 10  
3       days thereafter post a copy of the motion or petition on the door of the  
4       residence of the owner or in another conspicuous place at the location where  
5       the animal or animals were seized.

6       (n) Cost of care hearing.

7           (1) Upon the court's receipt of return of service of process of the motion  
8       or petition on the owner, the court shall set a hearing on the motion or petition  
9       to determine whether the seizure of the animal was lawful and whether a need  
10      exists to care for the animal or animals pending final disposition of the  
11      criminal charges.

12       (2) The hearing shall be conducted as promptly as possible after the  
13      court's receipt of return of service of process of the motion or petition on the  
14      owner.

15       (3) Any humane officer is authorized to serve written notice on the  
16      owner of the date, time, and location of the hearing. If no name and address  
17      for the owner are set forth in the motion or petition, then such notice shall be  
18      posted in a conspicuous place at the location where the animal or animals were  
19      seized.

20       (4) No testimony or other information presented by the defendant in  
21      connection with a cost of care proceeding under this section or any information

1       directly or indirectly derived from such testimony or other information may be  
2       used for any purpose, including impeachment and cross-examination, against  
3       the defendant in any criminal case, except a prosecution for perjury or giving a  
4       false statement.

5       (o) Cost of care order.

6           (1) Upon a showing that any animal was seized lawfully and that the  
7       cost of care of any animal seized is necessary pursuant to subdivision (k)(1) of  
8       this section, the court shall order payment into the registry of the court of an  
9       amount sufficient to cover all costs of the animal's or animals' care, including  
10       veterinary care, as determined by the court, for a period beginning on the date  
11       of seizure and ending 30 days after the date of the order.

12           (2) Notwithstanding the court's authority to order payment to cover  
13       costs of animal care, the court shall not, for purposes of this section, consider  
14       the owner's ability to pay such costs of care. If the required payment is not  
15       deposited within five days after the order setting the amount of the funds, then  
16       the animal or animals shall be forfeited to the petitioner.

17           (3) If the payment is deposited, the owner shall be ordered to  
18       subsequently deposit an amount equal to the portion of the original deposit  
19       amount attributable to the first 30 days after the date of the initial order every  
20       30 days thereafter until the owner relinquishes the animal or animals or until  
21       final disposition of the criminal charges. If the required funds are not

1        deposited within five days after the expiration of each applicable subsequent  
2        30-day period, then the animal or animals shall be forfeited to the petitioner by  
3        operation of law.

4        (4) The court may amend the owner's 30-day payment obligation upon  
5        the filing of a motion by the owner or petitioner at least five days before the  
6        expiration date of the then-current 30-day payment period. The hearing shall  
7        be held within 10 days after service of the motion on the opposite party, and  
8        any amendment to the 30-day payment amount shall become effective five  
9        days after the court orders, or refuses to order, an amendment.

10        (5) Upon the payment of funds into the court registry in accordance with  
11        this section, the petitioner may immediately begin to draw from those funds for  
12        payment of the actual costs incurred in keeping and caring for the animal or  
13        animals.

14        (6) Upon final disposition of any related criminal charges filed,  
15        remaining funds deposited into the court registry shall be refunded to the  
16        owner.

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

18        § 3202. ESTABLISHMENT OF DIVISION OF ANIMAL WELFARE;  
19        POWERS AND DUTIES

20

\* \* \*

1                   (e)(1) The Division of Animal Welfare shall adopt rules pursuant to 3

2                   V.S.A. chapter 25 to:

3                   (A) provide for the receipt and management of security posted in  
4                   animal forfeiture proceedings and transferred to the Fund by the court pursuant  
5                   13 V.S.A. § 354(d)(3)(B) and 13V.S.A. § 354(g)(2), including the amount of  
6                   security required; and

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

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

10                  § 3203. ANIMAL WELFARE FUND

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

15                  (b) The Fund shall consist of:

16                  (1) 67 percent of the revenue collected from the surcharge assessed  
17                  under subsection 3581(f) of this title; and  
18                  (2) appropriations made by the General Assembly; and  
19                  (3) security posted in animal forfeiture proceedings and transferred to  
20                  the Fund by the court pursuant 13 V.S.A. § 354(d)(3)(B) and 13V.S.A.  
21                  § 354(g)(2).

## 6 Sec. 8. EFFECTIVE DATE

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

8

9

10

11

12

13

14

Representative \_\_\_\_\_

17

## FOR THE COMMITTEE