

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;

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

\* \* \*

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, barter, 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.

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) Possesses, films, or distributes visual images of sexual conduct  
16 with an animal.

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.

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

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

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

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

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

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

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

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.

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

4           (ii) For a second or subsequent violation of section 352a of this  
5           title, forfeit any future right to own, possess, or care for any animal for a period  
6           of not less than ten years.

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

18          (d)(1) A person who is prohibited from owning, possessing, or caring for an  
19          animal by an order issued under pursuant to subdivision (b)(1)(C) or (b)(2) of  
20          this section may petition the court for an order that the person be relieved from  
21          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.

1           (4) The court shall grant a petition filed under this section if it finds that  
2           the petitioner has demonstrated by a preponderance of the evidence that the  
3           petitioner is no longer likely to abuse an animal in violation of section 352 or  
4           352a of this title.

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.

8           (6) If the court denies the petition, the petitioner may appeal the denial to  
9           the Vermont Supreme Court. The appeal shall be on the record, and the  
10          Supreme Court may review the record de novo.

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(c) 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(e) 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;

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

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

6           (D) a form that may be used to request a forfeiture hearing under  
7           subdivision (3)(A) of this subsection.

8           (3)(A) The court shall hold a forfeiture hearing if a request is made  
9           within 10 days after the seizure by a person claiming a legal interest in the  
10           animal at the time of the seizure. The hearing shall be held within 30 days  
11           after the request in the territorial unit of the Civil Division of the Superior  
12           Court where the offense is alleged to have occurred.

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.

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

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

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)(1)(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)~~(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       (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).

- 1 (c) All balances in the Fund at the end of the fiscal year shall be carried  
2 forward. Interest earned by the Fund shall remain in the Fund.  
3 (d) The Director of Animal Welfare shall have the authority to make  
4 distributions and reimbursements from the Fund for the purposes authorized by  
5 13 V.S.A. § 354.

6 Sec. 8. EFFECTIVE DATE

7 This act shall take effect on July 1, 2026.  
8  
9  
10  
11  
12  
13

14 (Committee vote: \_\_\_\_\_)

15 \_\_\_\_\_

16 Representative \_\_\_\_\_

17 FOR THE COMMITTEE