

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (12) Possessing, **owning, caring for, residing with, having custody of, or**
4 **working with** an animal while the person is prohibited from possessing
5 **owning, caring for, having custody of, or working with** an animal by a **court**
6 order issued pursuant to subsection 353(b) of this title.

7 (13) **Refusing to comply with a court order issued pursuant to**
8 **subdivision (b)(1)(E) to permit periodic unannounced visits by a humane**
9 **officer.**

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

11 § 352a. AGGRAVATED CRUELTY TO ANIMALS

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

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

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

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

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

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

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

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

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

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

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

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

20 § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

21 (a) Penalties.

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

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

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

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

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

11 (C) Nothing in this subdivision (4) shall be construed to require that a
12 civil citation be issued prior to a criminal charge of violating subdivision
13 352(3), (4), or (9) of this title.

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

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

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

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

12 ~~(3)(C)(i) Forfeit~~ For a first violation of section 352 of this title, forfeit
13 any future right to own, possess, ~~or~~ care for, reside with, have custody of, or
14 work with any animal for a period ~~that the court deems appropriate~~ of not less
15 than up to five years.

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

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

1 ~~(4)(D)(i)~~ Participate in successfully complete an available animal
2 cruelty prevention programs program;

3 (ii) or educational programs, or both successfully complete an
4 animal abuse education accountability program approved by the Director of
5 Animal Welfare or ; and

6 (iii) obtain psychiatric or psychological counseling treatment with
7 a clinician licensed in the State of Vermont, within a reasonable distance from
8 the defendant's residence.

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

11 (ii) If a juvenile is adjudicated delinquent under section 352 or
12 352a of this title, the court may order the juvenile to undergo a psychiatric or
13 psychological evaluation and to participate in treatment that the court
14 determines to be appropriate after due consideration of the evaluation a
15 psychological assessment to determine if therapy or treatment is needed. If the
16 screening indicates that therapy is needed, the court may order the juvenile to
17 satisfactorily complete or show substantial progress in completing a therapy
18 program with a clinician licensed in the state of Vermont. The court may
19 impose the costs of such programs or counseling upon the defendant when
20 appropriate.

1 ~~(5)(E)~~ Permit periodic unannounced visits ~~for a period up to one year~~ by
2 a humane officer to inspect the care and condition of any animal ~~permitted by~~
3 ~~the court to remain~~ in the care, custody, or possession of the defendant
4 ~~beginning after the end of the five-year prohibition to own, possess, or care for~~
5 ~~an animal for a period as described in subdivision (3) of this subsection during~~
6 ~~the period, and for up to one year after expiration of the period, that the~~
7 ~~defendant is prohibited from owning, possessing, caring for, residing with,~~
8 ~~having custody of, or working with an animal by an order issued under~~
9 ~~pursuant to subdivision (b)(1)(C) or (b)(2) of this section.~~ Such period may be
10 extended by the court upon motion made by the State.

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

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

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

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

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

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

16 (c) Upon an order of forfeiture of an animal under this section or section
17 354 of this title, the court shall order custody of the animal remanded to a
18 humane society or other individual deemed appropriate by the court, for further
19 disposition in accordance with accepted practices for humane treatment of
20 animals. A transfer of rights under this section constitutes a transfer of
21 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.

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

11 (2) The court ~~shall~~ may grant a petition filed under this section without
12 hearing if neither the State’s Attorney nor the Attorney General files an
13 objection within 30 days after receiving notice of the petition or if the
14 petitioner and the respondent stipulate to the granting of the petition. ~~If the~~
15 court grants the petition pursuant to this subdivision, the court shall make
16 findings and issue an order in accordance with this section.

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

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

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

3 (C) whether the person participated in successfully completed animal
4 cruelty prevention programs or educational programs or obtained psychiatric or
5 psychological counseling.

6 (4) The court shall grant a petition filed under this section if it finds that
7 the petitioner has demonstrated by a preponderance of the evidence that the
8 petitioner is no longer likely to abuse an animal in violation of section 352 or
9 352a of this title the interests of justice are no longer served by prohibiting the
10 petitioner from owning, possessing, caring for, residing with, having custody
11 of, or working with an animal.

12 (5) If a petition filed under this section is granted, the court shall enter
13 an order declaring that vacate the order prohibiting the person from owning,
14 possessing, or caring for, residing with, having custody of, or working with an
15 animal no longer applies.

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

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

1 further petition shall be brought for at least two years, unless a shorter duration
2 is authorized by the court.

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

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

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

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

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

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

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

18 (c) A humane officer shall provide suitable care at a reasonable cost for an
19 animal seized under this section, and have a lien on the animal for all expenses
20 incurred. A humane officer may arrange for the euthanasia of a severely
21 injured, diseased, or suffering animal upon the recommendation of a licensed

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

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

20 ~~(e)(1) A preliminary hearing shall be held within 21 days of institution of~~
21 ~~the civil forfeiture proceeding. If the defendant requests a hearing on the~~

1 ~~merits, the court shall schedule a final hearing on the merits to be held within~~
2 ~~21 days of the date of the preliminary hearing. Time limits under this~~
3 ~~subsection shall not be construed as jurisdictional.~~

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

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

17 (1) Unless a person claiming a legal interest in the animal requests a
18 forfeiture hearing pursuant to subdivision (3)(A) of this subsection and posts
19 security pursuant to subdivision (3)(B) of this subsection, title to an animal
20 seized pursuant to subsection (b) of this section shall be forfeited pursuant to
21 subsection 353(c) of this title 40 14 days after seizure or, if the person was not

1 present, service, if the procedures of this subsection are followed. The
2 computation of the ~~10-day~~ 14-day period shall include the day on which the
3 animal is seized service is effectuated.

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

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

14 (B) a statement that any person claiming a legal interest in the animal
15 at the time of seizure may post security and request a forfeiture hearing
16 concerning the seizure and that failure to do so within ~~10~~ 14 days following the
17 date of the notice or service will result in forfeiture of title and disposition of
18 the animal;

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

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

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

7 (3)(A) The court shall hold a forfeiture hearing if a request is made
8 within 40 14 days after the seizure by a person claiming a legal interest in the
9 animal at the time of the seizure. The hearing shall be held within 30 days
10 after the request, unless the 30-day period is extended by the court for good
11 cause shown, in the territorial unit of the Civil Division of the Superior Court
12 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 40 14 days following the

1 seizure, and the computation of the ~~10-day~~ 14-day period shall include the day
2 on which the animal is seized. The court shall collect and transfer the security
3 to 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.
7 Whether the defendant pays the security required by subdivision (d)(3)(B) of
8 this section shall be a relevant factor for the court to consider when
9 determining whether the animal was subjected to neglect. The court shall
10 make findings of fact and conclusions of law and shall issue a final order
11 ~~within five business days after the hearing promptly~~. The findings shall
12 include the total amount of all costs incurred by the custodial caregiver. If the
13 State meets its burden of proof, the court shall order the immediate forfeiture
14 of the animal, and any offspring of the animal that was born while the animal
15 was in custody, in accordance with the provisions of subsection 353(c) of this
16 title.

17 (D) Notwithstanding subdivision (B) of this subdivision (d)(4) the
18 court may order the animal returned to the petitioner if the court finds by a
19 preponderance of the evidence that the petitioner:

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

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

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

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

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

17 (3)(F) No testimony or other information presented by the defendant
18 in connection with a forfeiture proceeding under this section or any
19 information directly or indirectly derived from such testimony or other
20 information may be used for any purpose, including impeachment and cross-

1 examination, against the defendant in any criminal case, except a prosecution
2 for perjury or giving a false statement.

3 (F) The rules of evidence shall apply in the forfeiture hearing ~~except~~
4 ~~that hearsay shall be admissible unless otherwise provided by this section.~~

5 (e) If an order of forfeiture is not entered after the hearing, the animal shall
6 be returned to the person claiming an interest in the animal upon payment to
7 the custodial caretaker of all actual costs of care and keeping during the period
8 of impound, including veterinary care, provided that the payment of costs shall
9 not be required if the court finds that there was no reasonable basis for the
10 seizure. If payment of the costs required by this subsection is not made within
11 ~~15~~ 14 days after the final order, the custodial caretaker's costs, not to exceed
12 the amount of security posted pursuant to subdivision (d)(3)(B) of this section,
13 shall be reimbursed from the Animal Welfare Fund established pursuant to 20
14 V.S.A. § 3203.

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

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

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

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

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

4 ~~(h)(g)(1)~~ A forfeiture order issued under this section may be appealed as a
5 matter of right to the Supreme Court if a notice of appeal is filed within 57
6 days after the order is issued and the appellant posts security pursuant to
7 subdivision (2) of this subsection. The order shall not be stayed pending
8 appeal.

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

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

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

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

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

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

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

16 ~~(k) Cost of care action. If an animal is seized under this section, the State~~
17 ~~or custodial caregiver may commence a civil proceeding for reimbursement of~~
18 ~~the reasonable cost of animal care in the unit of the Criminal Division of the~~
19 ~~Superior Court where the offense is alleged to have occurred. The proceeding~~
20 ~~shall be commenced by a petition for reimbursement of the cost of animal care,~~
21 ~~which shall be filed with the court and served upon the animal's owner. The~~

1 ~~civil cost of care proceeding is intended to run independently from any~~
2 ~~criminal prosecution and shall not be delayed pending disposition of any~~
3 ~~criminal proceedings.~~

4 ~~(l) Contents of cost of care motion or petition. The motion or petition~~
5 ~~described in subsection (h) of this section shall contain a description of the~~
6 ~~time, place, and circumstances of the seizure; the legal authority for the~~
7 ~~seizure; and the name and address of the owner of the animal or animals~~
8 ~~seized.~~

9 ~~(m) Service of process. Any humane officer as defined in section 351 of~~
10 ~~this title shall personally serve written process of the motion or petition on the~~
11 ~~owner of the animal or animals. If the officer is unable to personally serve~~
12 ~~written process of the motion or petition on the owner of the animal or animals~~
13 ~~within 30 days after the date of filing the petition, the officer shall within 10~~
14 ~~days thereafter post a copy of the motion or petition on the door of the~~
15 ~~residence of the owner or in another conspicuous place at the location where~~
16 ~~the animal or animals were seized.~~

17 ~~(n) Cost of care hearing.~~

18 ~~(1) Upon the court's receipt of return of service of process of the motion~~
19 ~~or petition on the owner, the court shall set a hearing on the motion or petition~~
20 ~~to determine whether the seizure of the animal was lawful and whether a need~~

1 ~~exists to care for the animal or animals pending final disposition of the~~
2 ~~criminal charges.~~

3 ~~(2) The hearing shall be conducted as promptly as possible after the~~
4 ~~court's receipt of return of service of process of the motion or petition on the~~
5 ~~owner.~~

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

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

17 ~~(e) Cost of care order.~~

18 ~~(1) Upon a showing that any animal was seized lawfully and that the~~
19 ~~cost of care of any animal seized is necessary pursuant to subdivision (k)(1) of~~
20 ~~this section, the court shall order payment into the registry of the court of an~~
21 ~~amount sufficient to cover all costs of the animal's or animals' care, including~~

1 ~~veterinary care, as determined by the court, for a period beginning on the date~~
2 ~~of seizure and ending 30 days after the date of the order.~~

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

8 ~~(3) If the payment is deposited, the owner shall be ordered to~~
9 ~~subsequently deposit an amount equal to the portion of the original deposit~~
10 ~~amount attributable to the first 30 days after the date of the initial order every~~
11 ~~30 days thereafter until the owner relinquishes the animal or animals or until~~
12 ~~final disposition of the criminal charges. If the required funds are not~~
13 ~~deposited within five days after the expiration of each applicable subsequent~~
14 ~~30-day period, then the animal or animals shall be forfeited to the petitioner by~~
15 ~~operation of law.~~

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

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

§ 3202. ESTABLISHMENT OF DIVISION OF ANIMAL WELFARE;

* * *

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

§ 3203. ANIMAL WELFARE FUND

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

5 (b) The Fund shall consist of:

6 (1) 67 percent of the revenue collected from the surcharge assessed
7 under subsection 3581(f) of this title; and

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

9 (3) security posted in animal forfeiture proceedings and transferred to
10 the Fund by the court pursuant to 13 V.S.A. § 354(d)(3)(B) and 13V.S.A.
11 § 354(g)(2).

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

14 (d) The Director of Animal Welfare shall have the authority to make
15 distributions and reimbursements from the Fund for the purposes authorized by
16 13 V.S.A. § 354.

17 Sec. 8. EFFECTIVE DATE

18 This act shall take effect on July 1, 2026.
19
20
21

1

2

3

4 (Committee vote: _____)

5

6

Representative _____

7

FOR THE COMMITTEE