

1 H.578  
2 Introduced by Representatives Krasnow of South Burlington, Goodnow of  
3 Brattleboro, Goslant of Northfield, and Rachelson of Burlington  
4 Referred to Committee on  
5 Date:  
6 Subject: Crimes; humane and proper treatment of animals; cruelty to animals  
7 Statement of purpose of bill as introduced: This bill proposes to increase the  
8 scope of sexual conduct that can be prosecuted or adjudicated as animal cruelty  
9 or aggravated animal cruelty. This bill further proposes to create a mechanism  
10 to recover costs of care from the alleged defendant after an animal is seized  
11 during an animal cruelty investigation. Additionally, this bill proposes to  
12 impose mandatory sanctions, including animal possession bans of not less than  
13 five years, for persons convicted of animal cruelty.

14 An act relating to penalties and procedures for animal cruelty offenses  
15 It is hereby enacted by the General Assembly of the State of Vermont:  
16 Sec. 1. 13 V.S.A. § 351 is amended to read:  
17 § 351. DEFINITIONS  
18 As used in this chapter:

\* \* \*

1 (21) “Sexual conduct” means:

2 (A) any act between a person and animal that involves contact  
3 between the mouth, sex organ, or anus of a person and the mouth, sex organ, or  
4 anus of an animal; or

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

13 \* \* \*

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

15       § 352. CRUELTY TO ANIMALS

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

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

19 (2) Overworks, overloads, tortures, torments, abandons, administers  
20 poison to, cruelly harms or mutilates an animal, or exposes a poison with in  
21 that it be taken by an animal.

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

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

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

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

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

4                   **§ 352a. AGGRAVATED CRUELTY TO ANIMALS**

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

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

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

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

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

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

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

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

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

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

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

11                  § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

12                  (a) Penalties.

13                  (1) Except as provided in subdivision (3), (4), or (5) of this subsection,  
14                  cruelty to animals under section 352 of this title shall be punishable by a  
15                  sentence of imprisonment of not more than one year or a fine of not more than  
16                  \$2,000.00, or both. Second and subsequent convictions shall be punishable by  
17                  a sentence of imprisonment of not more than two years or a fine of not more  
18                  than \$5,000.00, or both.

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

1 punishable by a sentence of imprisonment of not more than ~~ten~~ 10 years or a  
2 fine of not more than \$7,500.00, or both.

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

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

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

12 (1) Forfeit any rights to the animal subjected to cruelty, and to any other  
13 animal, except livestock or poultry owned, possessed, or in the custody of the  
14 defendant.

19 (3) Forfeit any future right to own, possess, or care for any animal for a  
20 period ~~that the court deems appropriate~~ of not less than five years.

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

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

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) Consultation prior to enforcement. The Secretary of Agriculture, Food  
7 and Markets shall be consulted prior to any enforcement action brought  
8 pursuant to this chapter that involves livestock and poultry. Law enforcement  
9 may consult with the Secretary in person or by electronic means, and the  
10 Secretary shall assist law enforcement in determining whether the practice or  
11 animal condition, or both, represent acceptable livestock or poultry husbandry  
12 practices.

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

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

20 (2) Search and seizure using a search warrant. A humane officer having  
21 probable cause to believe an animal is being subjected to cruel treatment in

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

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

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

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

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

18 (e) Civil forfeiture procedure.

19 (1) A preliminary hearing shall be held within 21 days ~~of institution~~  
20 after commencing of the civil forfeiture proceeding. If the defendant requests  
21 a hearing on the merits, the court shall schedule a final hearing on the merits to

1       be held within 21 days of after the date of the preliminary hearing. Time limits  
2       under this subsection shall not be construed as jurisdictional.

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

9               (f) Civil forfeiture hearing.

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

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

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

11 (g) Costs of care.

12 (1) If the defendant is convicted of criminal charges under this chapter  
13 or if an order of forfeiture is entered against an owner under this section, the  
14 defendant or owner shall be required to repay all reasonable costs incurred by  
15 the custodial caregiver for caring for the animal, including veterinary expenses.  
16 The Restitution Unit within the Center for Crime Victim Services is authorized  
17 to collect the funds owed by the defendant or owner on behalf of the custodial  
18 caregiver or a governmental agency that has contracted or paid for custodial  
19 care in the same manner as restitution is collected pursuant to section 7043 of  
20 this title. The restitution order shall include the information required under

1 subdivision 7043(e)(2)(A) of this title. The court shall make findings with  
2 respect to the total amount of all costs incurred by the custodial caregiver.

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

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

13 (C) If an animal is returned to a defendant or owner under this  
14 subdivision (2), the defendant or owner shall not be responsible for the costs of  
15 caring for the animal.

16 (h) ~~A forfeiture order issued under this section may be appealed as a matter~~  
17 ~~of right to the Supreme Court. The order shall not be stayed pending appeal.~~  
18 Cost of care action. If an animal is seized under this section, the State or  
19 custodial caregiver may commence a civil proceeding for reimbursement of the  
20 reasonable cost of animal care in the unit of the Criminal Division of the  
21 Superior Court where the offense is alleged to have occurred. The proceeding

1       shall be commenced by a petition for reimbursement of the cost of animal care,  
2       which shall be filed with the court and served upon the animal's owner. The  
3       civil cost of care proceeding is intended to run independently from any  
4       criminal prosecution and shall not be delayed pending disposition of any  
5       criminal proceedings.

6           (i) The provisions of this section are in addition to and not in lieu of the  
7       provisions of section 353 of this title Contents of cost of care motion or  
8       petition. The motion or petition described in subsection (h) of this section  
9       shall contain a description of the time, place, and circumstances of the seizure;  
10       the legal authority for the seizure; and the name and address of the owner of  
11       the animal or animals seized.

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

1        (k) Cost of care hearing.

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

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

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

15        (l) Cost of care order.

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

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

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

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

20                   (5) Upon the payment of funds into the court registry in accordance with  
21                   this section, the petitioner may immediately begin to draw from those funds for

1 payment of the actual costs incurred in keeping and caring for the animal or  
2 animals.

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

6 (m) Neither the result of a hearing pursuant to subsection (k) or (l) of this  
7 section, nor a statement of an owner made at any such hearing, shall be  
8 admissible in any criminal prosecution related to the seizure of the animal or  
9 animals.

10 (n) Appeal. A forfeiture order issued under this section may be appealed as  
11 a matter of right to the Supreme Court. The order shall not be stayed pending  
12 appeal.

13 (o) Nonexclusive remedy. The provisions of this section are in addition to  
14 and not in lieu of the provisions of section 353 of this title.

15 (p) Interference with enforcement. It is unlawful for a person to interfere  
16 with a humane officer or the Secretary of Agriculture, Food and Markets  
17 engaged in official duties under this chapter. A person who violates this  
18 subsection shall be prosecuted under section 3001 of this title.

19 Sec. 6. EFFECTIVE DATE

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