

1 TO THE HONORABLE SENATE:

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 Senate propose to the House that the bill be amended by striking out all
6 after the enacting clause and 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) Possesses, owns, cares for, resides with, has custody of, or works
4 with an animal while the person is prohibited from possessing owning, caring
5 for, having custody of, or working with an animal by a court order.

6 (13) Knowingly refuses to comply with a court order issued pursuant to
7 subdivision 353(b)(1)(E) of this title to permit periodic unannounced visits by
8 a humane officer or the Director of Animal Welfare.

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

10 § 352a. AGGRAVATED CRUELTY TO ANIMALS

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

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

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

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

18 (4)(A) engages in sexual conduct with an animal in the presence of a
19 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;

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; or

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.

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

2 § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

3 (a) Penalties.

4 (1) Except as provided in subdivision (3), (4), or (5) of this subsection,
5 cruelty to animals under section 352 of this title shall be punishable by a
6 sentence of imprisonment of not more than one year or a fine of not more than
7 \$2,000.00, or both. Second and subsequent convictions shall be punishable by
8 a sentence of imprisonment of not more than two years or a fine of not more
9 than \$5,000.00, or both.

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

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

18 (4)(A) Except as provided in subdivision (B) of this subdivision (4), a
19 person found in violation of subdivision 352(3), (4), or (9) of this title pursuant
20 to this subdivision (A) shall be imprisoned not more than one year or fined not
21 more than \$2,000.00, or both. Second and subsequent convictions shall be

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

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

13 (C) Nothing in this subdivision (4) shall be construed to require that a
14 civil citation be issued prior to a criminal charge of violating subdivision
15 352(3), (4), or (9) of this title.

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

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

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

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

14 ~~(3)(C)(i) Forfeit~~ For a first violation of section 352 of this title, forfeit
15 any future right to own, possess, ~~or~~ care for, reside with, have custody of, or
16 work with any animal for a period ~~that the court deems appropriate~~ of up to
17 five years.

18 (ii) For a first violation of section 352a of this title, forfeit any
19 future right to own, possess, care for, reside with, have custody of, or work
20 with any animal for a period of up to 10 years.

1 (iii) A person shall not be required to forfeit any future right to
2 own, possess, care for, have custody of, or work with livestock or poultry
3 under this subdivision (C) unless the person was convicted of abusing
4 livestock or poultry.

5 ~~(4)(D)(i)(I) Participate in~~ complete an available animal cruelty
6 prevention ~~programs~~ program that is approved by the Director of Animal
7 Welfare;

8 ~~(II) or educational programs, or both, or~~ complete an animal
9 abuse education accountability program, if any are approved by the Director of
10 Animal Welfare; and

11 ~~(III) obtain~~ undergo a psychiatric or psychological counseling,
12 evaluation, and, if the screening indicates that therapy is needed, obtain
13 psychiatric, psychological, or mental health treatment with a licensed clinician,
14 remotely or 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 (ii) The court may impose the costs of programs or counseling
21 ordered pursuant to this subdivision (D) upon the defendant when appropriate.

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

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

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

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

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

4 (iii) A person shall not be required to forfeit any future right to
5 own, possess, care for, have custody of, or work with livestock or poultry
6 under this subdivision (B) unless the person was convicted of abusing
7 livestock or poultry.

8 (c) Upon an order of forfeiture of an animal under this section or section
9 354 of this title, the court shall order custody of the animal remanded to a
10 humane society or other individual deemed appropriate by the court, for further
11 disposition in accordance with accepted practices for humane treatment of
12 animals. A transfer of rights under this section constitutes a transfer of
13 ownership and shall not constitute or authorize any limitation upon the right of
14 the humane society, individual, or other entity, to whom rights are granted to
15 dispose of the animal.

16 (d)(1) A person who is prohibited from owning, possessing, caring for,
17 residing with, having custody of, or working with an animal by an order issued
18 pursuant to subdivision (b)(1)(C) or (b)(2) of this section may petition the
19 court for an order that the person be relieved from the prohibition imposed by
20 that section. When the petition is filed, the petitioner shall provide notice and
21 a copy of the petition to the office that prosecuted the case, who shall be the

1 respondent in the matter. The petition shall be filed in the Criminal Division of
2 the unit where the offense or the adjudication occurred.

3 (2) The court may grant a petition filed under this section without
4 hearing if neither the State’s Attorney nor the Attorney General files an
5 objection within 30 days after receiving notice of the petition or if the
6 petitioner and the respondent stipulate to the granting of the petition.

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

10 (A) whether the person committed any subsequent animal cruelty
11 offenses or other criminal offenses;

12 (B) whether the person successfully completed any required
13 conditions of probation;

14 (C) whether the person completed animal cruelty prevention
15 programs or educational programs, and whether the programs were approved
16 by the Director of Animal Welfare; and

17 (D) whether the person obtained psychiatric, psychological, or mental
18 health counseling from a licensed clinician.

19 (4) The court shall grant a petition filed under this section if it finds that
20 the petitioner has demonstrated by a preponderance of the evidence that the
21 interests of justice are no longer served by prohibiting the petitioner from

1 owning, possessing, caring for, residing with, having custody of, or working
2 with an animal.

3 (5) If a petition filed under this section is granted, the court shall vacate
4 the order prohibiting the person from owning, possessing, caring for, residing
5 with, having custody of, or working with an animal.

6 (6) If the court denies the petition, the petitioner may appeal the denial
7 to the Vermont Supreme Court. The appeal shall be on the record.

8 (7) If the court denies a petition filed under this section, no further
9 petition shall be brought for at least two years, unless a shorter duration is
10 authorized by the court.

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

12 § 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;
13 SEARCHES AND SEIZURES; FORFEITURE

14 (a) The Secretary of Agriculture, Food and Markets shall, if practicable, be
15 consulted prior to any enforcement action brought pursuant to this chapter that
16 involves livestock and poultry. Law enforcement may consult with the
17 Secretary in person or by electronic means, and the Secretary shall assist law
18 enforcement in determining whether the practice or animal condition, or both,
19 represent acceptable livestock or poultry husbandry practices. Failure to
20 conduct the consultation shall not be grounds for dismissal of the enforcement
21 action or exclusion of evidence.

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

5 (1) Voluntary surrender. A humane officer may accept animals
6 voluntarily surrendered by the owner anytime during the cruelty investigation.
7 The humane officer shall have a surrendered animal examined and assessed
8 within 72 hours, or as soon as reasonably practicable, by a veterinarian
9 licensed to practice in the State of Vermont. Failure to have the animal
10 examined and assessed within 72 hours, or as soon as reasonably practicable,
11 shall not be grounds for dismissal of the enforcement action or exclusion of
12 evidence.

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

1 of the search warrant. Failure to be accompanied by a veterinarian during the
2 execution of the search warrant shall not be grounds for dismissal of the
3 enforcement action or exclusion of evidence.

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

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

1 custodial caretaker shall be responsible for maintaining the records applicable
2 to all animals seized, including identification, residence, location, medical
3 treatment, and disposition of the animals.

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

13 ~~(e)(1) A preliminary hearing shall be held within 21 days of institution of~~
14 ~~the civil forfeiture proceeding. If the defendant requests a hearing on the~~
15 ~~merits, the court shall schedule a final hearing on the merits to be held within~~
16 ~~21 days of the date of the preliminary hearing. Time limits under this~~
17 ~~subsection shall not be construed as jurisdictional.~~

18 ~~(2) If the defendant fails to respond to the notice for preliminary hearing,~~
19 ~~the court shall enter a default judgment ordering the immediate forfeiture of~~
20 ~~the animal in accordance with the provisions of subsection 353(c) of this title.~~
21 ~~A motion to reopen a default judgment shall be filed in writing with the court~~

1 ~~no later than 30 days after entry of a default judgment. A default judgment~~
2 ~~shall not be reopened unless good cause is shown.~~

3 ~~(f)(1) At the hearing on the motion for forfeiture, the State shall have the~~
4 ~~burden of establishing by clear and convincing evidence that the animal was~~
5 ~~subjected to cruelty, neglect, or abandonment in violation of section 352 or~~
6 ~~352a of this title. The court shall make findings of fact and conclusions of law~~
7 ~~and shall issue a final order. If the State meets its burden of proof, the court~~
8 ~~shall order the immediate forfeiture of the animal in accordance with the~~
9 ~~provisions of subsection 353(e) of this title.~~

10 (1) Unless a person claiming an ownership interest in the animal
11 requests a forfeiture hearing pursuant to subdivision (3)(A) of this subsection
12 and posts security pursuant to subdivision (3)(B) of this subsection or requests
13 that the security be reduced or waived on the basis of financial hardship, title to
14 an animal seized pursuant to subsection (b) of this section shall be forfeited
15 pursuant to subsection 353(c) of this title 14 days after seizure if the
16 procedures of this subsection are followed.

17 (2) The humane officer who seizes an animal pursuant to this section
18 shall give notice of this section at the time of the seizure by delivering a copy
19 of it to a person who is present and claims an ownership interest in the animal.
20 The officer shall also give notice of this section by conspicuously posting a
21 copy of it at the time of the seizure in a prominent and accessible place at the

1 location where the animal is seized. For any person who is known to claim an
2 ownership interest in the animal and who is not present at the time of the
3 seizure, the humane officer shall make reasonable efforts, within 96 hours
4 following the seizure, to give notice of this section by personal service or by
5 registered mail addressed to the last known address of the person. The notice
6 shall include:

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

11 (B) a statement that any person claiming an ownership interest in the
12 animal at the time of seizure may post security and request a forfeiture hearing
13 concerning the seizure and that failure to do so within 14 days following the
14 date of the seizure will result in forfeiture of title and disposition of the animal;

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

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

19 (E) a form that may be used to request a forfeiture hearing under
20 subdivision (3)(A) of this subsection (d) and a financial hardship exemption
21 under subsection (j) of this section.

1 (3)(A) The court shall hold a forfeiture hearing if a request is made
2 within 14 days after the seizure by a person claiming an ownership interest in
3 the animal at the time of the seizure. If the defendant has requested that the
4 security be reduced or waived on the basis of financial hardship, the court shall
5 grant or deny the request at or before the hearing. The hearing shall be held
6 within 30 days after the request, unless the 30-day period is extended by the
7 court for good cause shown, in the territorial unit of the Criminal Division of
8 the Superior Court where the offense is alleged to have occurred.

9 (B) A person who requests a forfeiture hearing pursuant to this
10 subdivision (3) shall post security in an amount needed to cover food and
11 necessary veterinary care for the animal for an initial 40-day period, with an
12 additional amount equal to the estimated cost of care and keeping of the animal
13 for a subsequent 30-day period due every 30 days thereafter until the owner
14 relinquishes the animal or until the court issues an order of forfeiture. The
15 amount of the security and the payment schedule shall be set in rules adopted
16 by the Director of Animal Welfare pursuant to 20 V.S.A. § 3202(e). The
17 initial security shall be posted within 14 days following the seizure unless the
18 person requests that the security be reduced or waived by the court on the basis
19 of financial hardship. The court shall collect and transfer the security to the
20 Animal Welfare Fund established pursuant to 20 V.S.A. § 3203. The Director
21 of Animal Welfare shall make payment, not to exceed the security received, to

1 the custodial caretaker upon receipt of proof of expenditure of funds by the
2 caretaker for food and necessary veterinary care for the animal.

3 (C) The State shall have the burden of establishing by a
4 preponderance of the evidence that the animal was subjected to cruelty,
5 neglect, or abandonment in violation of section 352 or 352a of this title. The
6 court shall make findings of fact and conclusions of law and shall issue a final
7 order promptly. The findings shall include the total amount of all costs
8 incurred by the custodial caretaker and the amount the person claiming an
9 interest in the animal is able to pay. If the State meets its burden of proof, the
10 court shall order the immediate forfeiture of the animal, and any offspring of
11 the animal that were born while the animal was in custody, in accordance with
12 the provisions of subsection 353(c) of this title.

13 (D) Notwithstanding subdivision (B) of this subdivision (d)(3), the
14 court may order the animal returned to the petitioner if the court finds by a
15 preponderance of the evidence that the petitioner:

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

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

19 (iii) did not have any express or implied knowledge that the
20 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)~~(E) Affidavits of law enforcement officers, humane officers, animal
5 control officers, veterinarians, or expert witnesses of either party shall be
6 admissible evidence that may be rebutted by witnesses called by either party.
7 The affidavits shall be delivered to the other party at least five business days
8 prior to the hearing. Upon request of the other party or the court made at least
9 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~~ remotely in lieu of a personal appearance
12 and shall adopt rules with respect to such testimony.

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

19 (G) The rules of evidence shall apply in the forfeiture hearing unless
20 otherwise provided by this section.

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, less any security paid, provided that the
5 payment of costs shall not be required if the court finds that there was no
6 reasonable basis for the seizure. If payment of the costs required by this
7 subsection is not made within 14 days after the final order, the custodial
8 caretaker’s costs, not to exceed the amount of remaining security posted
9 pursuant to subdivision (d)(3)(B) of this section, shall be reimbursed from the
10 Animal Welfare Fund established pursuant to 20 V.S.A. § 3203, and title to the
11 animal shall be forfeited unless a financial hardship reduction or waiver
12 request is pending or has been granted.

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

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

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

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

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

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

6 (2) The appellant shall post security in an amount needed to cover food
7 and necessary veterinary care for the animal for an initial 40-day period from
8 the date that the forfeiture order was issued, with an additional amount equal to
9 the estimated cost of care and keeping of the animal for a subsequent 30-day
10 period due every 30 days thereafter until the owner relinquishes the animal or
11 until final disposition of the case. Failure to timely pay the full amount shall
12 result in forfeiture to title to the animal unless a financial hardship reduction or
13 waiver request is pending or has been granted. The calculation of the security
14 shall be set in rules adopted by the Director of Animal Welfare pursuant to 20
15 V.S.A. § 3202(e). The court shall collect and transfer the security to the
16 Animal Welfare Fund established pursuant to 20 V.S.A. § 3203. The Director
17 of Animal Welfare shall make payment, not to exceed the security received, to
18 the custodial caretaker upon receipt of proof of expenditure of funds by the
19 caretaker for food and necessary veterinary care for the animal.

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

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

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

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

8 § 3203. ANIMAL WELFARE FUND

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

13 (b) The Fund shall consist of:

14 (1) 67 percent of the revenue collected from the surcharge assessed
15 under subsection 3581(f) of this title; ~~and~~

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

17 (3) security posted in animal forfeiture proceedings and transferred to
18 the Fund by the court pursuant to 13 V.S.A. § 354(d)(3)(B) and 13 V.S.A.
19 § 354(g)(2).

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

1 (d) The Director of Animal Welfare shall have the authority to make
2 distributions and reimbursements from the Fund for the purposes authorized by
3 13 V.S.A. § 354.

4 Sec. 8. TRANSITION; SECURITY AMOUNT

5 (a) Until the Director of Animal Welfare adopts rules pursuant to 13 V.S.A.
6 § 354(d)(3)(B), the amount of security under 13 V.S.A. § 354(d) and (g) shall
7 be required pursuant to this section.

8 (b) For all animals other than livestock, including domestic pets and
9 poultry, security shall be required in the amount of:

10 (1) \$1.00 per animal per day for food; and

11 (2) if the seizing officer determines that immediate veterinary care is
12 required to protect the animal’s health or safety, \$250 per animal for veterinary
13 services.

14 (c) For livestock, security shall be required in the amount of:

15 (1) \$2.50 per animal per day for food; and

16 (2) if the seizing officer determines that immediate veterinary care is
17 required to protect the animal’s health or safety, \$500 per animal for veterinary
18 services.

19 Sec. 9. EFFECTIVE DATE

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

21

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2

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4 (Committee vote: _____)

5

6

Senator _____

7

FOR THE COMMITTEE