

ANIMAL PROTECTION LAWS OF VERMONT

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This chapter contains Vermont's general animal protection and related statutes with an effective date on or before September 1, 2017. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Vermont may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

VERMONT

<p>1. <u>GENERAL PROHIBITIONS</u> *</p>	<p>Statement of intent VT. STAT. ANN. tit. 13, § 351a</p> <p>(1) Cruelty to animals VT. STAT. ANN. tit. 13, § 352</p> <p>(2) Aggravated animal cruelty VT. STAT. ANN. tit. 13, § 352a</p> <p>(3) Poisoning animals VT. STAT. ANN. tit. 13, § 362</p> <p>(4) Shelter of animals VT. STAT. ANN. tit. 13, § 365</p> <p>(5) Confinement of animals in vehicles VT. STAT. ANN. tit. 13, § 386</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A]ll living sentient creatures, not human beings” VT. STAT. ANN. tit. 13, § 351(1)</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (5) Civil violation (select first-time offenses) <i>or</i> Misdemeanor</p> <p>(2) Felony</p> <p>(3), (4) Misdemeanor</p>

VERMONT *continued*

2. MAXIMUM PENALTIES **

Definitions of felonies and misdemeanors
VT. STAT. ANN. tit. 13, § 1

(1), (5)

Civil violation:

\$500 fine

VT. STAT. ANN. tit. 13, § 353(a)(4)

VT. STAT. ANN. tit. 13, § 386(c)

Criminal:

[1st offense]:

1 year imprisonment

and/or

\$2,000 fine

VT. STAT. ANN. tit. 13, § 353(a)(4)

VT. STAT. ANN. tit. 13, § 386(c)

[Subsequent offenses]:

2 years imprisonment

and/or

\$5,000 fine

VT. STAT. ANN. tit. 13, § 353(a)(4)

VT. STAT. ANN. tit. 13, § 386(c)

(2)

[1st offense]:

5 years imprisonment

and/or

\$5,000 fine

VT. STAT. ANN. tit. 13, § 353(a)(2)

[Subsequent offenses]:

10 years imprisonment

and/or

\$7,500 fine

VT. STAT. ANN. tit. 13, § 353(a)(2)

VERMONT *continued*

<p>2. MAXIMUM PENALTIES ** <i>continued</i></p>	<p>(3), (4) [1st offense]: 1 year imprisonment <i>and/or</i> \$2,000 fine VT. STAT. ANN. tit. 13, § 353(a)(1)</p> <p>[Subsequent offenses]: 2 years imprisonment <i>and/or</i> \$5,000 fine VT. STAT. ANN. tit. 13, § 353(a)(1)</p>
<p>3. <u>EXEMPTIONS</u> ***</p>	<p>1, 2, 3, 4, 9 VT. STAT. ANN. tit. 13, § 351b</p> <p>4, 9 VT. STAT. ANN. tit. 13, § 352(1),(3)</p> <p>1, 2, 6, 9 VT. STAT. ANN. tit. 13, § 352b(b)(c)</p> <p>3, 6 VT. STAT. ANN. tit. 13, § 362</p>
<p>4. <u>COUNSELING / EVALUATIONS</u> ^H</p>	<p>Court may order counseling upon conviction; may order juvenile offenders to undergo mental health evaluation and counseling; costs to be imposed upon defendant when appropriate. VT. STAT. ANN. tit. 13, § 353(b)(4)</p>
<p>5. <u>PROTECTIVE ORDERS</u> ^H</p>	<p>VT. STAT. ANN. tit. 15, § 1103(c)(2)(G)</p>

VERMONT *continued*

**6. RESTITUTION / REIMBURSEMENT
OF COSTS / BONDING & LIENS**^H

Court may order defendant to repay reasonable costs of care upon conviction.
VT. STAT. ANN. tit. 13, § 353(b)(2)

Humane officer has a lien for all reasonable costs of care for seized animal.
VT. STAT. ANN. tit. 13, § 354(c)

Defendant shall be ordered to pay reasonable costs of care upon conviction.
VT. STAT. ANN. tit. 13, § 354(g)

7. SEIZURE / ON-SITE SUPERVISION

Special procedures for seizure of livestock
VT. STAT. ANN. tit. 13, § 354(a)

Search warrant may be issued for probable cause and cruelly treated animals seized; a veterinarian must accompany the officer for warrant execution.
VT. STAT. ANN. tit. 13, § 354(b)(2)

Humane officer may seize an animal being cruelly treated without a warrant if animal's life is in danger.
VT. STAT. ANN. tit. 13, § 354(b)(3)

VERMONT *continued*

<p>8. <u>FORFEITURE / POSSESSION</u> ^H</p>	<p>Upon conviction court may require forfeiture of any animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant, and may prohibit future ownership, possession or care of any animal. VT. STAT. ANN. tit. 13, § 353(b)(1),(3)</p> <p>Court may permit periodic unannounced visits by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. VT. STAT. ANN. tit. 13, § 353(b)(5)</p> <p>Court shall order forfeiture of seized animals prior to conviction if the state convinces the court by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment. VT. STAT. ANN. tit. 13, § 354(c)-(f)</p>
<p>9. <u>CROSS ENFORCEMENT / REPORTING</u></p>	<p>-----</p>
<p>10. <u>VETERINARIAN REPORTING / IMMUNITY</u></p>	<p>No civil liability for a veterinarian who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals; or who assists a humane officer in the execution of a warrant. VT. STAT. ANN. tit. 26, § 2404</p>
<p>11. <u>LAW ENFORCEMENT POLICIES</u></p>	<p>Any humane officer may enforce animal protection statutes. VT. STAT. ANN. tit. 13, § 354(b)</p>
<p>12. <u>SEXUAL ASSAULT</u></p>	<p>Sexual contact with an animal is a misdemeanor. VT. STAT. ANN. tit. 13, § 352 (11)</p>

VERMONT *continued*

<p>13. <u>FIGHTING</u></p>	<p>Various animal fighting activities are felonies punishable by 5 years imprisonment and a \$5,000 fine; seizure and forfeiture of animals used for fighting and related property is authorized. VT. STAT. ANN. tit. 13, §§ 352(5),(6), 353(a)(3), 364</p>
<p><i>NOTES</i></p>	<p>Interference with or cruelty to a guide dog VT. STAT. ANN. tit. 13, § 355</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

VT. STAT. ANN. tit. 13, § 351 (2017). Definitions.

As used in this chapter:

- (1) “Animal” means all living sentient creatures, not human beings.*
- (2) “Secretary” means the Secretary of Agriculture, Food and Markets.*
- (3) “Horse” means the entire family of equidae.*
- (4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. § 4(11); auxiliary State Police officers; deputy game wardens; humane society officer, employee, or agent; animal control officer appointed by the legislative body of a municipality; local board of health officer or agent, or any officer authorized to serve criminal process.*
- (5) “Humane society” or “society for prevention of cruelty to animals” means the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society which, through its agents has the lawful authority to interfere with acts of cruelty to animals.*
- (6) “Local board of health” means the town or city health officer and the selectboard members or aldermen.*
- (7) “Necessary medical attention” shall include medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.*
- (8) “Person” means any individual, firm, partnership or corporation, or authorized agent or representative of a person, partnership or corporation.*
- (9) “Sanitation” means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.*
- (10) “Torture” or “torment” means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.*
- (11) “Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites and camelids.*
- (12) “Poultry” means meat and egg producing chickens, exhibition (fancy) chickens, turkeys, domestic ducks, geese, pheasants, chicken partridge and coturnix quail.*

(13) “Livestock and poultry husbandry practices” means the raising, management and using of animals to provide humans with food, fiber or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

(14) “Agricultural or sporting association” means an organization or association determined by the secretary.

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian veterinary practices or livestock and poultry husbandry practices.

(17) “Adequate water” means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall the interval when water is not provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) “Adequate shelter” means shelter which protects the animal from injury and environmental hazards.

(19) “Enclosure” means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) “Livestock guardian dog” means a purpose-bred dog that is:

(A) specifically trained to live with livestock without causing them harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

VT. STAT. ANN. tit. 13, § 351a (2017). Purpose of subchapter.

The purpose of this subchapter is to prevent cruelty to animals. In implementing this subchapter, enforcement officers are encouraged to educate the public on requirements of the subchapter and, when appropriate, to seek voluntary resolution of violations.

VT. STAT. ANN. tit. 13, § 352 (2017). Cruelty to animals.

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

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent 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) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;

(5)
(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

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

(6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder;

(11)

(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

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

VT. STAT. ANN. tit. 13, § 352a (2017). Aggravated cruelty to animals.

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

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

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

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

VT. STAT. ANN. tit. 13, § 362 (2017). Exposing poison on the land.

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(a)(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.

VT. STAT. ANN. tit. 13, § 365 (2017). Shelter of animals.

(a) Adequate shelter. All livestock and animals that are to be predominantly maintained in an outdoor area shall be provided with adequate shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained in an outdoor area shall be provided. The building opening size and height shall, at a minimum, extend one foot above the withers of the largest animal housed and shall be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall, or stanchion ties, or other housing under control of the Agency of Agriculture, Food and Markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(c) Minimum size of living space; dogs and cats.

(1) A dog shall be provided a minimum living space that is large enough to allow the dog, in a normal manner, to turn about freely, stand, sit, and lie down. A dog shall be presumed to have minimum living space if provided with floor space in the greater amount of the following:

(A) If the dog is:

(i) less than 33 pounds (15 kilograms), floor space of at least eight square feet;

(ii) 33 or more pounds (15 or more kilograms) up to and including 66 pounds (30 kilograms), floor space of at least 12 square feet; and

(iii) more than 66 pounds (30 kilograms), floor space of at least 24 square feet.

(B) Floor space in square footage calculated according to the following formula: floor space in square feet = (length of dog in inches + 6) x (length of dog in inches + 6) / 144. The length of the dog in inches shall be measured from the tip of the nose of the dog to the base of its tail.

(2) The specifications required by subdivision (c)(1) of this section shall be required for each dog, regardless of whether the dog is housed individually or with other animals.

(3)

(A) A cat over the age of two months shall be provided a minimum living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have minimum living space if provided with floor space of at least eight square feet and a primary structure of at least 24 inches in height. Floor space shall be calculated to include any raised resting platforms provided.

(B) The requirements of this subdivision (c)(3) shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(4)

(A) Each female dog with nursing puppies shall be provided the living space required under subdivision (1) of this subsection (c) plus sufficient additional floor space to allow for a whelping box and the litter, based on the size or the age of the puppies. When the puppies discontinue nursing, the living space requirements of subdivisions (1) and (2) of this subsection shall apply for all dogs housed in the same living space.

(B) Each female cat with nursing kittens shall be provided the living space required under subdivision (3) of this subsection (c) plus sufficient additional floor space to allow for a queening box and the litter, based on the size or the age of the kittens. When the kittens discontinue nursing, the living space requirements of subdivision (3) of this subsection shall apply for all cats housed in the same living space.

(5)

(A) Females in heat (estrus) shall not be housed in the same primary living space or enclosure with intact males, except for breeding purposes.

(B) A dog or cat exhibiting a vicious or overly aggressive disposition shall be housed separately from other dogs or cats.

(6) All dogs or cats shall have access to adequate water and adequate food.

(d) Daily exercise; dogs or cats. A dog or cat confined in a living space shall be permitted outside the living space for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) Shelter for dogs maintained outdoors in enclosures.

(1) Except as provided in subdivision (2) of this subsection, a dog or dogs maintained outdoors in an enclosure shall be provided with one or more shelter structures. A shelter structure shall:

(A) Provide each dog housed in the structure sufficient space to, in a normal manner, turn about freely, stand, sit, and lie down.

(B) Be structurally sound and constructed of suitable, durable material.

(C) Be enclosed with sides, a roof, and a ground or floor surface that enables the dog to stay clean and dry.

(D) Have an entrance or portal large enough to allow each dog housed in the shelter unimpeded access to the structure, and the entrance or portal shall be constructed with a windbreak or rainbreak.

(E) Provide adequate protection from cold and heat, including protection from the direct rays of the sun and the direct effect of wind, rain, or snow. Shivering due to cold is evidence of inadequate shelter for any dog.

(2) A shelter structure is not required for a healthy livestock guardian dog that is maintained outdoors in an enclosure.

(3) If multiple dogs are maintained outdoors in an enclosure at one time:

(A) Each dog will be provided with an individual structure, or the structure or structures provided shall be cumulatively large enough to contain all of the dogs at one time.

(B) A shelter structure shall be accessible to each dog in the enclosure.

(4) The following categories of dogs shall not be maintained outdoors in an enclosure when the ambient temperature is below 50 degrees Fahrenheit:

(A) dogs that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(B) dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort; and

(C) sick or infirm dogs or dogs that cannot regulate their own body temperature.

(5) Metal barrels, cars, refrigerators, freezers, and similar objects shall not be used as a shelter structure for a dog maintained in an outdoor enclosure.

(6) In addition to the shelter structure, one or more separate outdoor areas of shade shall be provided, large enough to contain all the animals and protect them from the direct rays of the sun.

(f) Tethering of dog.

(1) Except as provided under subdivision (2) of this subsection, a dog predominantly maintained outdoors on a tether shall be on a tether that allows the dog to walk a distance in any one direction that is at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2)

(A) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether that allows the dog to walk a distance in any one direction that is at least two times the length of the dog, as measured from the tip of its nose to the base of its tail. The tether shall be attached to the anchor at a central point, allowing the dog access to a 360 degree area.

(B) If a tethering method involves the use of a trolley and cable and allows the dog to move freely along the length of the cable, the tether shall be long enough to allow the dog to lie down within its shelter without discomfort.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a wellfitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method.

(g) Repealed by 2017, No. 58, Sec. 2, effective July 1, 2017.

(h) Repealed by 2017, No. 58, Sec. 2, effective July 1, 2017.

(i) Violations. Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Repealed by 2017, No. 58, Sec. 2, effective July 1, 2017.

VT. STAT. ANN. tit. 13, § 386 (2017). Confinement of animals in vehicles.

(a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.

(b) Any humane officer or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer so removing an animal shall deliver the animal to a humane society, veterinarian or town or municipal pound. If the owner of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the department and address where the animal may be claimed. The owner shall be liable for reasonable expenses, and a lien may be placed on the animal for these expenses. The officer may not be held liable for criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section.

(c) Failure to comply with subsection (a) of this section is a violation of subdivision 352(3) of this title.

2. PENALTIES

VT. STAT. ANN. tit. 13, § 1 (2017). Felonies and misdemeanors defined.

Any other provision of law notwithstanding any offense whose maximum term of imprisonment is more than two years, for life or which may be punished by death is a felony. Any other offense is a misdemeanor.

VT. STAT. ANN. tit. 13, § 353 (2017). Degree of offense; sentencing upon conviction.

(a) Penalties.

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

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

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

(4)

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

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

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

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

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

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

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

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

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

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

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

VT. STAT. ANN. tit. 13, § 386 (2017). Confinement of animals in vehicles.

(a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.

(b) Any humane officer or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer so removing an animal shall deliver the animal to a humane society, veterinarian or town or municipal pound. If the owner of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the department and address where the animal may be claimed. The owner shall be liable for reasonable expenses, and a lien may be placed on the animal for these expenses. The officer may not be held liable for criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section.

(c) Failure to comply with subsection (a) of this section is a violation of subdivision 352(3) of this title.

3. EXEMPTIONS

VT. STAT. ANN. tit. 13, § 351b (2017). Scope of subchapter.

This subchapter shall not apply to:

- (1) activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10;*
- (2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;*
- (3) livestock and poultry husbandry practices for raising, management and use of animals;*
- (4) veterinary medical and surgical procedures; and*
- (5) the killing of an animal as provided by sections 3809 and 3545 of Title 20.*

VT. STAT. ANN. tit. 13, § 352 (2017). Cruelty to animals.

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

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;*
- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent 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) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;*
- (5)*
 - (A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or*

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

(6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder. ;

(11)

(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

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

VT. STAT. ANN. tit. 13, § 352b (2017). Rules; affirmative defense.

(a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the secretary.

(b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:

(1) except for vivisection or research under section 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;

(2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

(3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;

(4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or

(5) a state agency was implementing a rabies control program.

(c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

(d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of part 4 of Title 10, or the rules adopted thereunder.

VT. STAT. ANN. tit. 13, § 362 (2017). Exposing poison on the land.

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(a)(2) of this title. *This section shall not apply to control of wild pests, protection of crops from insects, mice and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.*

4. COUNSELING / EVALUATIONS

VT. STAT. ANN. tit. 13, § 353 (2017). Degree of offense; sentencing upon conviction.

(a) Penalties.

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

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

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

(4)

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

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

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

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

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

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

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

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

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

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

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

5. PROTECTIVE ORDERS

VT. STAT. ANN. tit. 15, § 1103 (2017). Requests for relief.

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)

(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) *The court order may include the following:*

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) *an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household;* and

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) Evidence of the plaintiff's past sexual conduct with the defendant.

(2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.

(3) Evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(k) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904."

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

VT. STAT. ANN. tit. 13, § 353 (2017). Degree of offense; sentencing upon conviction.

(a) Penalties.

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

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

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

(4)

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

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

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

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another or subdivision 352(2) of this title by

torturing, administering poison to, or cruelly beating or mutilating an animal shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

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

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

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

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

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

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

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

VT. STAT. ANN. tit. 13, § 354 (2017). Enforcement; possession of abused animal; searches and seizures; forfeiture.

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

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

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

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

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

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

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

(e)

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

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

(f)

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

(2) Affidavits of law enforcement officers, humane officers, animal control officer, veterinarians, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five business days prior to the hearing. Upon request of the other party or the Court, the party offering an affidavit shall make the affiant available by telephone at the hearing. The Court may allow any witness to testify by telephone in lieu of a personal appearance and shall adopt rules with respect to such testimony.

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

(g)

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

The restitution order shall include the information required under subdivision 7043(e)(2)(A) of this title. The Court shall make findings with respect to the total amount of all costs incurred by the custodial caregiver.

(2)

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

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

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

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

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

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

7. SEIZURE / ON-SITE SUPERVISION

VT. STAT. ANN. tit. 13, § 354 (2017). Enforcement; possession of abused animal; searches and seizures; forfeiture.

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

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

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

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

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

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

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

(e)

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

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

(f)

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

(2) Affidavits of law enforcement officers, humane officers, animal control officer, veterinarians, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five business days prior to the hearing. Upon request of the other party or the Court, the party offering an affidavit shall make the affiant available by telephone at the hearing. The Court may allow any witness to testify by telephone in lieu of a personal appearance and shall adopt rules with respect to such testimony.

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

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses. The Restitution Unit within the Center for Crime Victim Services is authorized to collect the funds owed by the defendant or owner on behalf of the custodial caregiver or a governmental agency that has contracted or paid for custodial care in the same manner as restitution is collected pursuant to section 7043 of this title. The restitution order shall include the information required under subdivision 7043(e)(2)(A) of this title. The Court shall make findings with respect to the total amount of all costs incurred by the custodial caregiver.

(2)

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

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

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

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

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

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

8. FORFEITURE / POSSESSION

VT. STAT. ANN. tit. 13, § 353 (2017). Degree of offense; sentencing upon conviction.

(a) Penalties.

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

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

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

(4)

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

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

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

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

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

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

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

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

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

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

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

VT. STAT. ANN. tit. 13, § 354 (2017). Enforcement; possession of abused animal; searches and seizures; forfeiture.

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

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

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

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

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

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

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

(e)

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

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

(f)

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

(2) Affidavits of law enforcement officers, humane officers, animal control officer, veterinarians, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five business days prior to the hearing. Upon request of the other party or the Court, the party offering an affidavit shall make the affiant available by telephone at the hearing. The Court may allow any witness to testify by telephone in lieu of a personal appearance and shall adopt rules with respect to such testimony.

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

(g)

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

The restitution order shall include the information required under subdivision 7043(e)(2)(A) of this title. The Court shall make findings with respect to the total amount of all costs incurred by the custodial caregiver.

(2)

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

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

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

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

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

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

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

VT. STAT. ANN. tit. 26, § 2404 (2017). Immunity from liability; cases of animal cruelty.

(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this state who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals, as defined in sections 352 and 352a of Title 13, to any humane officer or officer as defined in subdivision 351(4) of Title 13 or local board of health officer or agent.

(b) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who accompanies a humane officer during the execution of a warrant pursuant to section 354 of Title 13, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health assessment or necessary medical care, pursuant to section 354.

(c) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who inspects premises or orders a quarantine pursuant to section 3682 or 3683 of Title 20.

11. LAW ENFORCEMENT POLICIES

VT. STAT. ANN. tit. 13, § 354 (2017). Enforcement; possession of abused animal; searches and seizures; forfeiture.

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

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

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

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

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

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

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

(e)

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

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

(f)

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

(2) Affidavits of law enforcement officers, humane officers, animal control officer, veterinarians, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five business days prior to the hearing. Upon request of the other party or the Court, the party offering an affidavit shall make the affiant available by telephone at the hearing. The Court may allow any witness to testify by telephone in lieu of a personal appearance and shall adopt rules with respect to such testimony.

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

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses. The Restitution Unit within the Center for Crime Victim Services is authorized to collect the funds owed by the defendant or owner on behalf of the custodial caregiver or a governmental agency that has contracted or paid for custodial care in the same manner as restitution is collected pursuant to section 7043 of this title. The restitution order shall include the information required under subdivision 7043(e)(2)(A) of this title. The Court shall make findings with respect to the total amount of all costs incurred by the custodial caregiver.

(2)

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

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

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

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

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

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

12. SEXUAL ASSAULT

VT. STAT. ANN. tit. 13, § 352 (2017). Cruelty to animals.

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

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;
- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent 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) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;
- (5)
 - (A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or
 - (B) owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.
- (6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;
- (7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
- (8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
- (9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder;

(11)

(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

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

13. FIGHTING

VT. STAT. ANN. tit. 13, § 352 (2017). Cruelty to animals.

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

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;
- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent 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) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;
- (5)
 - (A) *owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or*
 - (B) *owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.*
- (6) *acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;*
- (7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
- (8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

VT. STAT. ANN. tit. 13, § 353 (2017). Degree of offense; sentencing upon conviction.

(a) Penalties.

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

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

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

(4)

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

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

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

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

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

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

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

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

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

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

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

VT. STAT. ANN. tit. 13, § 364 (2017). Animal fights.

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) Notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize:

(1) any equipment associated with that activity;

(2) any other personal property which is used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title; and

(3) monies, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of subdivisions 352(5) and (6) of this title.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals, equipment, and other property subject to seizure under this section . The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this subsection may be seized upon process issued by the court having jurisdiction over the property. Seizure without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

14. REFERENCED STATUTES

VT. STAT. ANN. tit. 13, § 1 (2017). Felonies and misdemeanors defined.

Any other provision of law notwithstanding any offense whose maximum term of imprisonment is more than two years, for life or which may be punished by death is a felony. Any other offense is a misdemeanor.

VT. STAT. ANN. tit. 13, § 351 (2017). Definitions.

As used in this chapter:

- (1) “Animal” means all living sentient creatures, not human beings.
- (2) “Secretary” means the Secretary of Agriculture, Food and Markets.
- (3) “Horse” means the entire family of equidae.
- (4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. § 4(11); auxiliary State Police officers; deputy game wardens; humane society officer, employee, or agent; animal control officer appointed by the legislative body of a municipality; local board of health officer or agent, or any officer authorized to serve criminal process.
- (5) “Humane society” or “society for prevention of cruelty to animals” means the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society which, through its agents has the lawful authority to interfere with acts of cruelty to animals.
- (6) “Local board of health” means the town or city health officer and the selectboard members or aldermen.
- (7) “Necessary medical attention” shall include but not be limited to medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.
- (8) “Person” means any individual, firm, partnership or corporation, or authorized agent or representative of a person, partnership or corporation.
- (9) “Sanitation” means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.
- (10) “Torture” or “torment” means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.

(11) “Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites and camelids.

(12) “Poultry” means meat and egg producing chickens, exhibition (fancy) chickens, turkeys, domestic ducks, geese, pheasants, chicken partridge and cotarnix quail.

(13) “Livestock and poultry husbandry practices” means the raising, management and using of animals to provide humans with food, fiber or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

(14) “Agricultural or sporting association” means an organization or association determined by the secretary.

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian veterinary practices or livestock and poultry husbandry practices.

(17) “Adequate water” means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall the interval when water is not provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) “Adequate shelter” means shelter which protects the animal from injury and environmental hazards.

(19) “Enclosure” means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) “Livestock guardian dog” means a purpose-bred dog that is:

(A) specifically trained to live with livestock without causing them harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

VT. STAT. ANN. tit. 13, § 351a (2017). Purpose of subchapter.

The purpose of this subchapter is to prevent cruelty to animals. In implementing this subchapter, enforcement officers are encouraged to educate the public on requirements of the subchapter and, when appropriate, to seek voluntary resolution of violations.

VT. STAT. ANN. tit. 13, § 351b (2017). Scope of subchapter.

This subchapter shall not apply to:

(1) activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10;

(2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

(3) livestock and poultry husbandry practices for raising, management and use of animals;

(4) veterinary medical and surgical procedures; and

(5) the killing of an animal as provided by sections 3809 and 3545 of Title 20.

VT. STAT. ANN. tit. 13, § 352 (2017). Cruelty to animals.

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

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent 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) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;

(5)

(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

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

(6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

VT. STAT. ANN. tit. 13, § 352a (2017). Aggravated cruelty to animals.

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

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

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

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

VT. STAT. ANN. tit. 13, § 352b (2017). Rules; affirmative defense

(a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the secretary.

(b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:

(1) except for vivisection or research under section 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;

(2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

(3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;

(4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or

(5) a state agency was implementing a rabies control program.

(c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

(d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of part 4 of Title 10, or the rules adopted thereunder.

VT. STAT. ANN. tit. 13, § 353 (2017). Degree of offense; sentencing upon conviction.

(a) Penalties.

(1) Except as provided in subdivision (3), (4) or (45) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

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

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

(4)

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

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

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

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

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

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

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

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

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

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

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

VT. STAT. ANN. tit. 13, § 354 (2017). Enforcement; possession of abused animal; searches and seizures; forfeiture.

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

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

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

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

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

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

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

(e)

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

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

(f)

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

(2) Affidavits of law enforcement officers, humane officers, animal control officer, veterinarians, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five business days prior to the hearing. Upon request of the other party or the Court, the party offering an affidavit shall make the affiant available by telephone at the hearing. The Court may allow any witness to testify by telephone in lieu of a personal appearance and shall adopt rules with respect to such testimony.

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

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses. The Restitution Unit within the Center for Crime Victim Services is authorized to collect the funds owed by the defendant or owner on behalf of the custodial caregiver or a governmental agency that has contracted or paid for custodial care in the same manner as restitution is collected pursuant to section 7043 of this title. The restitution order shall include the information required under subdivision 7043(e)(2)(A) of this title. The Court shall make findings with respect to the total amount of all costs incurred by the custodial caregiver.

(2)

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

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

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

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

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

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

VT. STAT. ANN. tit. 13, § 355 (2017). Interference with or cruelty to a guide dog.

(a) As used in this section:

(1) “Custody” means the care, control, and maintenance of a dog.

(2) “Guide dog” means a dog, whose status is reasonably identifiable, individually trained

to do work or perform tasks for the benefit of an individual with a disability for purposes of guiding an individual with impaired vision, alerting an individual with impaired hearing to the presence of people or sounds, assisting an individual during a seizure, pulling a wheelchair, retrieving items, providing physical support and assistance with balance and stability, and assisting with navigation.

(3) "Notice" means:

(A) a verbal or otherwise communicated warning regarding the behavior of another person and a request that the person stop the behavior; and

(B) a written confirmation submitted to the local law enforcement agency, either by the owner of the guide dog or another person on his or her behalf, which shall include a statement that the warning and request was given and the person's telephone number.

(b) No person shall recklessly injure or cause the death of a guide dog, or recklessly permit a dog he or she owns or has custody of to injure or cause the death of a guide dog. A person who violates this subsection shall be imprisoned not more than two years or fined not more than \$3,000.00, or both.

(c) No person who has received notice or has knowledge that his or her behavior, or the behavior of a dog he or she owns or has custody of, is interfering with the use of a guide dog shall recklessly continue to interfere with the use of a guide dog, or recklessly allow the dog he or she owns or has custody of to continue to interfere with the use of a guide dog, by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog user or his or her guide dog. A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(d) No person shall recklessly interfere with the use of a guide dog, or recklessly permit a dog he or she owns or has custody of to interfere with a guide dog, by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog user or his or her guide dog. A person who violates this subsection commits a civil offense and shall be:

(1) for a first offense, fined not more than \$100.00.

(2) for a second or subsequent offense, fined not more than \$250.00.

(e) A violation of subsection (d) of this section shall constitute notice as defined in subdivision (a)(3) of this section.

(f) As provided in section 7043 of this title, restitution shall be considered by the Court in any sentencing under this section if the victim has suffered any material loss. Material loss for purposes of this section means uninsured:

- (1) veterinary medical expenses;
- (2) costs of temporary replacement assistance services, whether provided by a person or guide dog;
- (3) replacement value of an equally trained guide dog without any differentiation for the age or experience of the dog;
- (4) loss of wages; and
- (5) costs and expenses incurred by the person as a result of the injury to the guide dog.

VT. STAT. ANN. tit. 13, § 362 (2017). Exposing poison on the land.

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(a)(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.

VT. STAT. ANN. tit. 13, § 364 (2017). Animal fights.

- (a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.
- (b) Notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize:
 - (1) any equipment associated with that activity;
 - (2) any other personal property which is used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title; and
 - (3) monies, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of subdivisions 352(5) and (6) of this title.
- (c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals, equipment, and other property subject to seizure under this section. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this subsection may be seized upon process issued by the court having jurisdiction over the property. Seizure without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

VT. STAT. ANN. tit. 13, § 365 (2017). Shelter of animals.

(a) Adequate shelter. All livestock and animals that are to be predominantly maintained in an outdoor area shall be provided with adequate shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained in an outdoor area shall be provided. The building opening size and height shall, at a minimum, extend one foot above the withers of the largest animal housed and shall be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall, or stanchion ties, or other housing under control of the Agency of Agriculture, Food and Markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(c) Minimum size of living space; dogs and cats.

(1) A dog shall be provided a minimum living space that is large enough to allow the dog, in a normal manner, to turn about freely, stand, sit, and lie down. A dog shall be presumed to have minimum living space if provided with floor space in the greater amount of the following:

(A) If the dog is:

(i) less than 33 pounds (15 kilograms), floor space of at least eight square feet;

(ii) 33 or more pounds (15 or more kilograms) up to and including 66 pounds (30 kilograms), floor space of at least 12 square feet; and

(iii) more than 66 pounds (30 kilograms), floor space of at least 24 square feet.

(B) Floor space in square footage calculated according to the following formula: floor space in square feet = (length of dog in inches + 6) x (length of dog in inches + 6) / 144. The length of the dog in inches shall be measured from the tip of the nose of the dog to the base of its tail.

(2) The specifications required by subdivision (c)(1) of this section shall be required for each dog, regardless of whether the dog is housed individually or with other animals.

(3)

(A) A cat over the age of two months shall be provided a minimum living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have minimum living space if provided with floor space of at least eight square feet and a primary structure of at least 24 inches in height. Floor space shall be calculated to include any raised resting platforms provided.

(B) The requirements of this subdivision (c)(3) shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(4)

(A) Each female dog with nursing puppies shall be provided the living space required under subdivision (1) of this subsection (c) plus sufficient additional floor space to allow for a whelping box and the litter, based on the size or the age of the puppies. When the puppies discontinue nursing, the living space requirements of subdivisions (1) and (2) of this subsection shall apply for all dogs housed in the same living space.

(B) Each female cat with nursing kittens shall be provided the living space required under subdivision (3) of this subsection (c) plus sufficient additional floor space to allow for a queening box and the litter, based on the size or the age of the kittens. When the kittens discontinue nursing, the living space requirements of subdivision (3) of this subsection shall apply for all cats housed in the same living space.

(5)

(A) Females in heat (estrus) shall not be housed in the same primary living space or enclosure with intact males, except for breeding purposes.

(B) A dog or cat exhibiting a vicious or overly aggressive disposition shall be housed separately from other dogs or cats.

(6) All dogs or cats shall have access to adequate water and adequate food.

(d) Daily exercise; dogs or cats. A dog or cat confined in a living space shall be permitted outside the living space for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) Shelter for dogs maintained outdoors in enclosures.

(1) Except as provided in subdivision (2) of this subsection, a dog or dogs maintained outdoors in an enclosure shall be provided with one or more shelter structures. A shelter structure shall:

(A) Provide each dog housed in the structure sufficient space to, in a normal manner, turn about freely, stand, sit, and lie down.

(B) Be structurally sound and constructed of suitable, durable material.

(C) Be enclosed with sides, a roof, and a ground or floor surface that enables the dog to stay clean and dry.

(D) Have an entrance or portal large enough to allow each dog housed in the shelter unimpeded access to the structure, and the entrance or portal shall be constructed with a windbreak or rainbreak.

(E) Provide adequate protection from cold and heat, including protection from the direct rays of the sun and the direct effect of wind, rain, or snow. Shivering due to cold is evidence of inadequate shelter for any dog.

(2) A shelter structure is not required for a healthy livestock guardian dog that is maintained outdoors in an enclosure.

(3) If multiple dogs are maintained outdoors in an enclosure at one time:

(A) Each dog will be provided with an individual structure, or the structure or structures provided shall be cumulatively large enough to contain all of the dogs at one time.

(B) A shelter structure shall be accessible to each dog in the enclosure.

(4) The following categories of dogs shall not be maintained outdoors in an enclosure when the ambient temperature is below 50 degrees Fahrenheit:

(A) dogs that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(B) dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort; and

(C) sick or infirm dogs or dogs that cannot regulate their own body temperature.

(5) Metal barrels, cars, refrigerators, freezers, and similar objects shall not be used as a shelter structure for a dog maintained in an outdoor enclosure.

(6) In addition to the shelter structure, one or more separate outdoor areas of shade shall be provided, large enough to contain all the animals and protect them from the direct rays of the sun.

(f) Tethering of dog.

(1) Except as provided under subdivision (2) of this subsection, a dog predominantly maintained outdoors on a tether shall be on a tether that allows the dog to walk a distance in any one direction that is at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2)

(A) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether that allows the dog to walk a distance in any one direction that is at least two times the length of the dog, as measured from the tip of its nose to the base of its tail. The tether shall be attached to the anchor at a central point, allowing the dog access to a 360 degree area.

(B) If a tethering method involves the use of a trolley and cable and allows the dog to move freely along the length of the cable, the tether shall be long enough to allow the dog to lie down within its shelter without discomfort.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a wellfitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method.

(g) Repealed by 2017, No. 58, Sec. 2, effective July 1, 2017.

(h) Repealed by 2017, No. 58, Sec. 2, effective July 1, 2017.

(i) Violations. Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Repealed by 2017, No. 58, Sec. 2, effective July 1, 2017.

VT. STAT. ANN. tit. 13, § 386 (2017). Confinement of animals in vehicles.

(a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.

(b) Any humane officer or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer so removing an animal shall deliver the animal to a humane society, veterinarian or town or municipal pound. If the owner of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the department and address where the animal may be claimed. The owner shall be liable for reasonable expenses, and a lien may be placed on the animal for these expenses. The officer may not be held liable for criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section.

(c) Failure to comply with subsection (a) of this section is a violation of subdivision 352(3) of this title.

VT. STAT. ANN. tit. 15, § 1103 (2017). Requests for relief.

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)

(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; and

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) Evidence of the plaintiff's past sexual conduct with the defendant.

(2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.

(3) Evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse.

It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order.

The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language:
"VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(k) Affidavit forms required pursuant to this section shall bear the following language:
"MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904."

VT. STAT. ANN. tit. 26, § 2404 (2017). Immunity from liability; cases of animal cruelty.

(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this state who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals, as defined in sections 352 and 352a of Title 13, to any humane officer or officer as defined in subdivision 351(4) of Title 13 or local board of health officer or agent.

(b) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who accompanies a humane officer during the execution of a warrant pursuant to section 354 of Title 13, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health *assessment or necessary medical care*, pursuant to section 354.

(c) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who inspects premises or orders a quarantine pursuant to section 3682 or 3683 of Title 20.