

**page 14: Secretary of Agriculture consultation requirement (incorporating decision in State v. Bona)**

(a) The Secretary of Agriculture, Food and Markets ~~shall~~should be consulted prior to any enforcement action brought pursuant to this chapter that involves livestock ~~and or~~ poultry if needed to determine whether animal husbandry standards were violated. 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. Failure to conduct the consultation shall not be grounds for dismissal of the enforcement action or exclusion of evidence.

**Page 14: Requirement that surrendered animals be seen by a veterinarian within 72 hours (incorporating decision in State v. St. Peter)**

(b)(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer ~~shall~~should have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the State of Vermont if believed necessary to stabilize the condition of or provide treatment to the animal. Failure to have the animal examined and assessed within such timeframe shall not be grounds for dismissal of the enforcement action or exclusion of evidence.

**page 15: Requirement that a veterinarian accompany search warrant execution (incorporating decision in State v. Sheperd)**

(b)(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 ~~shall, if practicable, should~~ accompany the humane officer during the execution of the search warrant if believed necessary to stabilize the condition of or provide immediate treatment to an animal being seized. Failure to be accompanied by a veterinarian during the execution of the search warrant shall not be grounds for dismissal of the enforcement action or exclusion of evidence.

**page 18: Notice of seizure/14-day period (variation from usual notice requirements based on decisions in State v. Sheperd and State v. Ferguson)**

(c)(1) The humane officer who seizes an animal pursuant to this section shall give notice of this section at the time of the seizure by delivering a copy of it to a person who is present and claims a legal interest in the animal. Such officer shall also give such notice by conspicuously posting a copy of this section and notice of the seizure in a prominent and accessible place at the location where the animal is seized. Where a~~Any~~ person who is known to claim a legal interest in the animal ~~who~~ is not present at the time of seizure, such officer shall make reasonable efforts, within 96 hours of the seizure, to serve the notice of seizure and of this section in person or by means of registered mail addressed to the last known address of the person. be served with the notice by conspicuously posting it in a prominent and accessible place at the location where the animal is seized. The notice shall include: ...

**page 19: Timeframe for forfeiture hearing**

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

(3)(B) A person who requests a forfeiture hearing pursuant to this subdivision (3) shall post security in an amount needed to cover food and necessary veterinary care for the animal for an initial 40-day period, with an additional amount equal to the estimated cost of care and keeping of the animal for a subsequent 30-day period due every 30 days thereafter until the owner relinquishes title or until the court issues an order of forfeiture. Failure to pay such amount when due shall result in forfeiture to title to the animal. The amount of the security and the payment schedule shall be set in rules adopted by the Director of Animal Welfare pursuant to 20 V.S.A. § 3202(e). The security shall be posted within 14 days following the seizure unless the person requests that the security be reduced or waived by the court on the basis of financial hardship. The court shall collect and transfer the security to the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203 and the Director of Animal Welfare shall pay such amounts, up to the security received, to the custodial caretaker upon receipt of proof of expenditure of funds by such caretaker for food and/or necessary veterinary expenses for such animal.

**page 20: Timeframe for decision**

(C) The State shall have the burden of establishing by a preponderance of the evidence that the animal was subjected to cruelty, neglect, or abandonment in violation of section 353 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order promptly within 7 days. The findings shall include the total amount of all costs incurred by the custodial care ~~taker~~giver. If the State meets its burden of proof, the court shall order the immediate forfeiture of the animal, and any offspring of the animal that were born while the animal was in custody, in accordance with the provisions of subsection 353(c) of this title.

**page 22: Consequence of failure to pay court-ordered costs of care**

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

**page 24: Appeal and consequence of failure to pay court-ordered costs of care during appeal**

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

stayed pending appeal. Such appeal shall be heard within 14 days of such filing with a final decision issued within 7 days of such hearing.

(2) The appellant shall post security in an amount needed to cover food and necessary veterinary care for the animal for an initial 40-day period from the date the forfeiture order was issued, with an additional amount equal to the estimated cost of care and keeping of the animal for a subsequent 30-day period due every 30 days thereafter until the owner relinquishes the animal or until final disposition of the case. Failure to pay such amount when due shall result in forfeiture to title to the animal. The ~~amount calculation~~ of the security ~~and the payment schedule~~ shall be set in rules adopted by the Director of Animal Welfare pursuant to 20 V.S.A. § 3202(e). The court shall collect and transfer the security to the Animal Welfare Fund established pursuant to 20 V.S.A. § 3203 and the Director of Animal Welfare shall pay such amounts, up to the security received, to the custodial caretaker upon receipt of proof of expenditure of funds by such person for the care and/or keeping of such animal.