

# MINNESOTA CRIMINAL ANIMAL PROTECTION LAWS

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## INTRODUCTION

These statutes and cases comprise the criminal animal protection law of Minnesota. The anti-cruelty provision, section 343.21, is very wide reaching, addressing the physical behavior toward an animal, as well as the general welfare requirements of food and shelter. There is a substantial amount of case law dealing with the general prohibition against cruelty to animals, and the potential penalties are quite severe. The proper mode of investigation of criminal complaints by law enforcement officers is detailed at § 343.22; the section is so detailed perhaps because § 343.01 authorizes the Minnesota Humane Society to both assist with and investigate on their own potential animal cruelty complaints. Furthermore, pursuant to § 343.22, subd. 1, *any person* who believes there may be animal cruelty going on may apply to the court to require law enforcement investigation. The various grants of authority with regard to the initiation and investigation of animal cruelty complaints may place Minnesota among the states with the strongest animal cruelty protections.

## GENERAL PROHIBITIONS AND WELFARE REQUIREMENTS

### **343.21. Overworking or mistreating animals; penalty**

**Subdivision 1. Torture.** No person shall overdrive, overload, torture<sup>3</sup>, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal<sup>4</sup> when it is unfit for labor, whether it belongs to that person or to another person.

**Subd. 2. Nourishment; shelter.** No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

**Subd. 3. Enclosure.** No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

**Subd. 4. Low feed.** No person shall feed any cow on food which produces impure or unwholesome milk.<sup>5</sup>

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<sup>3</sup> "Torture" or "cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death. Minn. Stat. § 343.20, subd. 3 (2008).

<sup>4</sup> "Animal" means every living creature except members of the human race. Minn. Stat. § 343.20 subd. 2 (2008).

<sup>5</sup> "Impure and unwholesome milk" means all milk obtained from diseased or unhealthy animals, or from animals fed on any substance which is putrefied or fermented. Minn. Stat. § 343.20, subd. 4 (2008).

**Subd. 5. Abandonment.** No person shall abandon any animal.

**Subd. 6. Temporary abandonment.** No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

**Subd. 7. Cruelty.** No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

**Subd. 8. Caging.** No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota state agricultural society, the Minnesota state fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

**Subd. 8a.** Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal<sup>6</sup> while it is providing service or while it is in the custody of the person it serves: (1) cause bodily harm to the animal; or (2) otherwise render the animal unable to perform its duties.

**Subd. 9. Penalty.** (a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

**(b)** A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm<sup>7</sup> to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

**(c)** A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

**(d)** A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm<sup>8</sup> to a pet or companion animal<sup>9</sup> may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

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<sup>6</sup> "Service animal" means an animal trained to assist a person with a disability. Minn. Stat. § 343.20, subd. 7 (2008).

<sup>7</sup> "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet or companion animal. Minn. Stat. § 343.20, subd. 8 (2008).

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies. (a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

**Subd. 10. Restrictions.** If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may

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<sup>8</sup> “Great bodily harm” means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet or companion animal. Minn. Stat. § 343.20, subd. 9 (2008).

<sup>9</sup> “Pet or companion animal” includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal. Minn. Stat. § 343.20, subd. 6 (2008).

limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer<sup>10</sup> or agent appointed pursuant to section 343.01, subdivision 1;
- (3) requiring performance by the person of community service; and
- (4) requiring the person to receive psychological, behavioral, or other counseling.

### **Minnesota Case Law:**

#### ***Standing:***

##### ***Minn. Council of Dog Clubs v. City of Minneapolis, 1994 Minn. App. LEXIS 1076 (1994) (unpublished).***

Appellants Minnesota Council of Dog Clubs and American Dog Owner's Association, Inc. brought suit challenging the constitutionality of various provisions of the Minnesota Cruelty to Animals Act §§ 343.20-343.37. The trial court dismissed the suit for lack of jurisdiction. The appellate court reversed, holding that Minn. Stat. § 343.21, subd. 2 subjected the organizations and their members to an affirmative duty, creating a bona fide legal interest that could be appropriately protected by a declaratory judgment and thereby providing the trial court jurisdiction.

#### ***Constitutionality:***

##### ***State v. Crume, 2000 Minn. App. LEXIS 908 (Minn. Ct. App. Aug. 22 2000) (unpublished).***

[See facts below] Crume challenged § 343.21 as being unconstitutionally vague because the terms "neglect" and "torture" have no commonly understood meaning. The appellate court disagreed, finding that "a reasonable person of ordinary intelligence would understand that allowing dogs to go without water is prohibited by the statute because it is an act or omission that causes or permits unnecessary or unjustifiable pain, suffering, or death."

##### ***State v. Weber, 1995 Minn. App. LEXIS 571 (Minn. Ct. App. Apr. 25 1995) (unpublished).***

Defendant Weber was found guilty of unjustly killing his neighbor's dog. The dog had entered Weber's property, and allegedly damaged insulation on a home and approached Weber.

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<sup>10</sup> "Animal control officer" means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction. Minn. Stat. § 343.20, subd. 5 (2008).

Weber admitted to shooting and killing the dog. Weber appealed the trial court's interpretation of the statute and the statute itself as being void for vagueness.

Weber challenged the trial court's statutory interpretation, arguing that the phrase "unfit for labor" should be applied to every verb in § 343.21, subd. 1, so that it should read "No person shall . . . unjustifiably . . . kill an animal . . . when it is unfit for labor." The appellate court disagreed, holding that "unfit for labor" only applies only to the prohibition against cruelly working animals. Furthermore, the court found that the prohibition against killing dogs unfit for labor does not give permission to kill other dogs.

Weber also challenged the statute on its face, arguing that the work "unjustifiably" renders the statute unconstitutionally vague. The appellate court disagreed, finding that the trial court had engaged in its proper function by interpreting statutory language as applied to individual cases.

**State v. Hoseth, No. C6-91-2170, 1992 WL 189427, at \*2-4 (Minn. Ct. App. Aug. 11, 1992).**

Appellant convicted of animal cruelty under 343.21 subd. 2 for failing to provide his dogs necessary water and shelter challenged the allegedly unconstitutional vagueness of the statute. Specifically, appellant is arguing that the phrase "necessary" is impermissibly vague. Court disagrees, referencing the necessity of animal welfare statutes to be at least somewhat vague to encompass all behavior that would cause needless suffering – a bar the court find that the appellant was sufficiently appraised of (and breached) here.

***Control:***

**State v. Ross, 2001 Minn. App. LEXIS 514 (Minn. Ct. App. May 15 2001) (unpublished).**

A jury found defendant Tracey Ross guilty of failure to provide necessary food, as required by § 343.21(2), to the six horses under her care and control during the winter of 1997-1998. Ross alleged that she had delegated the responsibility of feeding to Kelly Kloefer, and gave Kloefer money for feed. Ross, however, continued to visit the horses during the relevant time period.

The appellate court applied the plain meaning of the words "charge" and "control" and found that Ross did have control over her horses because (1) she was the owner, (2) delegation of feeding responsibility to Kloefer did not relieve Ross of the responsibility to feed the horses if Kloefer failed to fulfill the agreement, and (3) Ross's testimony did not establish that she had delegated the full responsibility for feeding to Kloefer.

**State v. Klammer, 230 Minn. 272, 41 N.W.2d 451 (1950).**

Defendant Leonard Klammer was convicted of allowing twenty-eight horses to die of starvation on his farm property. Klammer employed Frank Degner to feed and care for Klammer's thirty-six horses, but then discharged him about a month later. Degner voluntarily continued to feed the horses for about another month until the feed ran out. Klammer did not visit the horses for another two months and did not provide any replacement feed. He challenged his conviction on the grounds that the horses were under the control of Degner, rather than himself. The appellate court disagreed, finding that Klammer (1) was the owner of the horses,

(2) was the owner of the farm on which the horses were kept, and (3) had discharged the employee who was to feed and care for the horses, and therefore had control over the horses as required for a violation of the statute.

***Sufficiency of Evidence:***

***State v. Robertson, No. 18-CR-18-3584, 2020 WL 7134180, at \*3 (Minn. Ct. App. Dec. 7, 2020).***

*Defendant was convicted of under § 343.21, subd. 1 for “cruelly beat[ing]...or unjustifiably injur[ing], maim[ing], mutilat[ing], or kill[ing]” his dog when he bludgeoned him to death with a hammer. The State presented video evidence of this act. The court, construing the evidence in the light most favorable to the verdict, held that the jury could reasonably have found both the method and the outcome of killing his dog with a hammer as in violation of the statute. The court also referenced the fact that a deputy was willing to take the dog to a shelter and there was no evidence that a shelter would not accept the dog. This, in addition to the fact that witnesses testified that the dog quivered in pain as it was killed, were all together more than sufficient for the jury to convict the defendant.*

***Compassion Over Killing, Inc. v. Quality Pork Processors, Inc., No.50-CV-16-2658, 2017 WL 4766999, at \*2-3 (Minn. Ct. App. Oct. 23, 2017).***

*Affirming lower court decision that plaintiff’s evidence was stale as Compassion Over Killing’s undercover footage was 14 months old and thus in the court’s eyes no longer was close enough in time “to justify a finding of probable cause at that time.”*

***State v. Bell, No. 19HACR121294, 2014 WL 5314457, at \*3-4 (Minn. Ct. App. Oct. 20, 2014).***

*Defendant owner-operator of a dog kennel was convicted on thirteen felony counts of animal cruelty for mistreating and killing by drowning multiple puppies. At trial, the state presented testimony from employees of defendant, a veterinarian, the doctor who examined the dogs, a Humane Society investigator, a USDA employee, and members of the local sheriff’s department. The state also presented evidence from a police warrant execution that found individually plastic wrapped puppies with frozen fur in the kennel’s freezer. Some of these dogs were ID’ed by employees and later evaluated by a doctor.*

*Defendant alleged that there was insufficient direct and circumstantial evidence presented. The court, interpreting the facts in the light favorable to the verdict and with heightened scrutiny for circumstantial evidence, held that defendant’s argument of a possible alternative theory was insufficient to overturn the verdict as it was “mere conjecture.” Thus, the jury could have reasonably found that defendant had caused unnecessary suffering and death.*

***State v. Dokken, No. 76-CR-11-322, 2013 WL 4711131, at \*2-4 (Minn. Ct. App. Sep. 3, 2013).***

State needed to prove beyond a reasonable doubt that defendant had (1) willfully acted, failed to act, or neglected to act on behalf of an animal (2) in a manner that caused unnecessary or unjustifiable pain or suffering. Here, court found that circumstantial evidence including pictures of barn and testimony from doctor were sufficient for jury to reasonably draw the inference that defendant had neglected their horses – in fact, the court here states this is “the only reasonable inference.”

**State v. Ross, 2001 Minn. App. LEXIS 514 (Minn. Ct. App. May 15 2001) (unpublished).**

[See facts above] Testimony by the treating veterinarian of the horses “poor condition” combined with the element of control was enough to find Ross guilty under § 343.21(2).

**State v. Fitzgerald, 2000 Minn. App. LEXIS 1120 (Minn. Ct. App. Nov. 7 2000) (unpublished).**

Defendant Nancy Fitzgerald was convicted of cruelty to animals and violations of Minneapolis animal welfare ordinances. Pursuant to a search warrant animal control officers entered Fitzgerald’s home, where they found thirty-six dogs, all of whom were emaciated and dehydrated, with no access to food or water. The officers observed large amounts of urine and animal feces in the home. Additionally, most of the dogs had ear infections, skin rashes, and pressure sores. Fitzgerald challenged the sufficiency of the evidence for probable cause for issuance of the search warrant and sufficiency of the evidence for her conviction.

The appellate court found that there was probable cause to support the warrant based on the evidence: (1) Fitzgerald’s neighbor complained of multiple dogs in her yard and of hearing about twenty dogs barking in the house; (2) the officers observed a van containing many empty animal carriers; and (3) the officers detected a strong smell of urine and feces coming from the property.

The court also found sufficient evidence to affirm the cruelty conviction. The testimony of the veterinarian who evaluated the dogs upon arrival at the Minneapolis Animal Control shelter was enough for Fitzgerald to be convicted, and was sufficient for the appellate court to affirm.

**State v. Crume, 2000 Minn. App. LEXIS 908 (Minn. Ct. App. Aug. 22 2000) (unpublished).**

Defendant Russel Crume was convicted of mistreatment by torture or neglect. The proprietor of a dog kennel, Crume failed to notice that the automatic watering system to some of the kennels had been turned off, causing the dogs to refuse food. By the time he realized the problem, ten dogs were dead. Crume failed to bury the dogs, allegedly due to depression. Two months later, Crume’s soon-to-be ex-wife looked in the kennel and found the decaying carcasses of 10-15 dogs. She took pictures and reported it to the sheriff’s office. Crume challenged his conviction based on sufficiency of the evidence.

The appellate court affirmed the conviction due to sufficient evidence given by (1) the photographs taken by Crume’s ex-wife, (2) the testimony of the sheriff who executed a search warrant, and (3) the testimony of the veterinarian who reviewed the photographs but did not examine the dog carcasses.

***State v. Klammer*, 230 Minn. 272, 41 N.W.2d 451 (1950).**

[See facts above] Klammer argued that he had no actual knowledge of the condition of his horses and that, therefore, the evidence on which his conviction was based was insufficient. The appellate court disagreed, finding that he knew (1) the horses were on a farm he owned, (2) he had discharged the man supposed to take care of them, (3) the feed he had previously supplied was insufficient for a long period of time, and (4) of notice from the Minnesota Prevention of Cruelty to Animals containing reports that his horses were without food. This knowledge was sufficient evidence upon which to base a conviction.

***State v. Johnson*, 2008 Minn. App. Unpub. LEXIS 713 (2008) (unpublished).**

Defendant Edwin Johnson was convicted by a jury of cruelty under § 343.21. Upon learning that his dog had cornered a porcupine, resulting in the dog having numerous quills stuck in its legs, chin, nose, and mouth, Johnson refused to take the dog to a veterinarian because he could not afford it. Instead, Johnson beat the dog with a baseball bat, kicked it down the front stairs of the house, and finally killed the dog by stabbing it. Johnson challenged the sufficiency of the evidence that led to his conviction.

Johnson argued that because pets are chattel, an owner can put down a pet as long as the owner does not cause any unnecessary or unjustifiable pain or suffering. The appellate court found that the evidence showed that killing the dog was unjustifiable because (1) the dog's injuries were not severe, and (2) Johnson had the option of taking the dog to a nearby vet. Furthermore, the court found that Johnson's actions in beating and stabbing the dog caused it unnecessary and unjustifiable pain and suffering.

Johnson also argued that the evidence did not show that he had the necessary intent to support his conviction because he did not intend to cause pain and suffering to the dog. The court disagreed, holding that intent can be proved circumstantially and the mildness of the dog's injuries and availability of veterinary care was sufficient to prove an intentional act of cruelty.

***State v. Ortlepp*, 363 N.W.2d 39 (1985).**

Defendant Raymond Ortlepp, Chief of Police for the city of Omega, was convicted of unjustifiably killing animal. In what appeared to be a retaliatory attack for Mrs. Pinkston shooting his car, Ortlepp shot the Pinkston family's two dogs, killing one and wounding the other, as well as shooting and damaging the Pinkston home. Ortlepp argued that the evidence leading to his conviction was legally insufficient; the Minnesota Supreme Court disagreed, finding that (1) statements given by a co-defendant, (2) the failure of Ortlepp, a police officer, to report being shot at, (3) existence of motive and opportunity, (4) circumstantial evidence regarding the gun and shells used in the shooting, and (5) Ortlepp's inculpatory statements were sufficient evidence to affirm.

***State v. Maguire*, 188 Minn. 627, 248 N.W. 216 (1933).**



Defendant John Maguire was convicted willfully and unlawfully depriving a horse of food, thereby causing the horse's death.<sup>11</sup> Maguire was the owner of a farm and rented out a seventy acre pasture, in which the renters kept a large number of horses. Maguire then rented out additional acreage to another renter, Harwood, part of which acreage included the horse pasture. A dispute arose between the original renters and Maguire over the amount of the rent required per horse. Throughout the dispute, Harwood and Maguire would apparently not allow the horse owners access to the animals, despite the pasture being bare of food for the horses. Eventually, Harwood wrote to the owners to the effect that he and Maguire would allow the release of some of the horses and Harwood fenced additional pasture after receiving complaints about the horses' condition. At trial, Harwood testified that the horses were starved to death.

Maguire challenged his conviction. The Supreme Court of Minnesota affirmed, finding that Maguire and Harwood's actions indicated that Maguire was retaining possession of the horses under a lien, as security for the payment of the pasture rental.

### **Summary of Sufficient Evidence of Cruelty:**

1. Ownership of animal
2. Delegation of feeding responsibilities does not abdicate owner's control
3. Ownership of property on which animals are kept
4. Failure to keep employee who was supposed to feed animals
5. Veterinary testimony regarding condition of animals
6. Living conditions with animal urine and feces throughout
7. Photographs of animal carcasses
8. Officer testimony regarding conditions
9. Amount of food smaller than necessary
10. Correspondence from cruelty prevention society regarding reports of neglect of animals
11. Availability of veterinary care
12. Mildness of injuries
13. Testimony by co-defendant
14. Existence of motive and opportunity
15. Defendant's inculpatory statements
16. Keeping animals under a lien as security for rental payment

### ***Penalty:***

***State v. Weber, 1995 Minn. App. LEXIS 571 (Minn. Ct. App. Apr. 25 1995) (unpublished).***

[See facts above] For his penalty, Weber was ordered to pay a \$200 fine and restitution to the owner of \$1000. Weber challenged the restitution order. The appellate court agreed that restitution for the dog, because animals are private property, must be limited to the fair market value of the animal. *See also Soucek v. Banham*, 524 N.W.2d 478, 481 (Minn. App. 1994) (holding that pets are property, therefore compensatory damages should be limited to fair market value).

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<sup>11</sup> Maguire was convicted under G.S. 1923 (2 Mason, 1927) § 10443, which stated that "Every person who shall deprive an animal of which he has charge or control of the necessary food shall be guilty of a misdemeanor."

***State v. Fitzgerald*, 2000 Minn. App. LEXIS 1120 (Minn. Ct. App. Nov. 7 2000) (unpublished).**

[See facts above] Fitzgerald also challenged the seizure and subsequent disposal of the dogs. The appellate court affirmed the trial court's order on the grounds that Fitzgerald could not demonstrate the ability to care for the animals in accordance with the law.

***State v. Swedin*, 2006 Minn. App. LEXIS 120 (2006) (unpublished).**

Defendant Bart Swedin pled guilty to felony mistreatment of an animal after he admitted shooting and killing the family dog. However, rather than imposing a felony sentence, the trial court imposed a gross misdemeanor sentence after considering Swedin's remorsefulness, his cooperation, and family support in making its determination. The appellate court affirmed the reduced sentence as within the trial court's legitimate discretion.

#### **343.24. Cruelty in transportation**

**Subdivision 1. Penalty.** Any person who does any of the following is guilty of a misdemeanor: **(a)** Carries or causes to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which the animals can both stand and lie down during transportation and while awaiting slaughter; **(b)** Except as provided in subdivision 2, paragraph (a), carries or causes to be carried, upon a vehicle or otherwise, any live animal having feet or legs tied together, or in any other cruel or inhumane manner; **(c)** Transports or detains livestock in cars or compartments for more than 28 consecutive hours without unloading the livestock in a humane manner into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested to do so as provided in subdivision 2, paragraph (b), or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight; or **(d)** Permits livestock to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other.

**Subd. 2. Exceptions.** **(a)** A person may carry or cause to be carried, upon a vehicle or otherwise, a cloven-hoofed animal having legs tied together, if:

- (1)** the person transporting the animal is the animal's owner or an employee or agent of the owner;
- (2)** the animal weighs 250 pounds or less;
- (3)** the tying is done in a humane manner and is necessary for the animal's safe transport; and
- (4)** the animal's legs are tied for no longer than one-half hour.

**(b)** A person or corporation engaged in transporting livestock may confine livestock for 36 consecutive hours if the owner or person with custody of that particular shipment of livestock

requests in writing that an extension be allowed. That written request shall be separate from any printed bill of lading or other railroad form.

### **No Case Law Found**

#### **343.25. Docking horses; penalty**

A person who cuts the bony part of a horse's tail for the purpose of docking it, or who causes or knowingly permits the same to be done upon premises of which the person is owner, lessee, or user, or who assists in the cutting is guilty of a misdemeanor. When a horse is found so cut, upon the premises or in the custody of any person, and the wound resulting is unhealed, that fact shall constitute prima facie evidence that the offense was committed by the person. All fines resulting from complaint made by an officer or agent of any society of this state for the prevention of cruelty to animals for any offense specified in this section shall be paid to the society whose officer or agent made the complaint.

### **No Case Law Found**

#### **343.27. Poisoning animals**

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a gross misdemeanor.

### **Minnesota Case Law**

#### ***Constitutionality:***

#### ***State v. Eich, 204 Minn. 134, 282 N.W. 810 (1938).***

Defendant Matthew Eich was charged with poisoning a dog with strychnine.<sup>12</sup> The trial court certified several questions to the Minnesota Supreme Court – whether the law was unconstitutional at both the federal and statute level because it was void for vagueness or violated equal protection, and whether it was cruel and unusual punishment under the Minnesota constitution. The court answered all the questions in the negative, and remanded the case to the trial court.

#### **343.30. Injury to birds.**

A person who in any manner maliciously maims, kills, or destroys any bird designated as unprotected by section 97A.015, subdivision 52, or who maliciously destroys the nests or eggs of any such bird shall be guilty of a petty misdemeanor.

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<sup>12</sup> Eich was charged with violating 2 Mason Minn. St. 1927, § 10448, which provided that “any person who unjustifiably administers any poisonous or noxious drug or substance to any animal . . . or unjustifiably exposes any such drug or substance with intent that the same shall be taken by any animal,” was guilty of a felony.

**No Case Law Found**

**343.315. Live lure greyhound training or racing.**

No person may train a greyhound for racing using a live lure or live bait or conduct a greyhound race using a live lure or live bait.

**No Case Law Found**

**343.32. Artificially colored animals; sale.**

No chick, duckling, gosling, or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale; raffled; offered or given as a prize, premium, or advertising device; or displayed in any store, shop, carnival, or other public place.

**No Case Law Found**

**343.33. Use as advertising devices.**

Chicks, ducklings, and goslings younger than four weeks of age shall not be sold or offered for sale; raffled; or offered or given as a prize, premium, or advertising device, in quantity of fewer than 12 birds to an individual person unless sold by a person, firm, partnership or corporation engaged in the business of selling chicks, ducklings, and goslings for agricultural or wildlife purposes.

**No Case Law Found**

**343.34. Care of animals used as advertising devices.**

Stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale; raffle; or as a prize, premium, or advertising device; or displaying chicks, ducklings, or goslings to the public; shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

**No Case Law Found**

**343.35. Violations.**

A violation of sections 343.32 to 343.34 is a petty misdemeanor; provided that, after any violation has been called to the attention of the violator by any law enforcement officer, each day on which the violation continues or is repeated constitutes a separate offense.

**No Case Law Found**

### **343.36. Greased pig contests and turkey scrambles.**

No person shall operate, run or participate in a contest, game, or other like activity, in which a pig, greased, oiled or otherwise, is released and wherein the object is the capture of the pig, or in which a chicken or turkey is released or thrown into the air and wherein the object is the capture of the chicken or turkey. Any violation of this section is a misdemeanor.

### **No Case Law Found**

### **343.40. Dog houses**

**Subdivision 1. In general.** A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

**Subd. 2. Building specifications.** The shelter shall include a moisture-proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture-proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

**Subd. 3. Shade.** Shade from the direct rays of the sun, during the months of May to October shall be provided.

**Subd. 4. Farm dogs.** In lieu of the requirements of subdivisions 2 and 3, a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

**Subd. 5. Zoning.** All shelters required by this section shall be subject to all building or zoning regulations of any city, township, county, or state.

**Subd. 6. Penalty.** Whoever violates the provisions of this section is guilty of a petty misdemeanor.

### **No Case Law Found**

## INVESTIGATION AND ENFORCEMENT

### **343.01. Purposes; powers; county organization**

**Subdivision 1. Formation authorized.** A state federation of county and district societies for the prevention of cruelty to animals may be created as a corporation under chapter 317A for the purpose provided in section 343.06. The federation may appoint representatives in any county where no active county or district society exists for the purpose of receiving and accounting for funds from any source, and may also appoint agents at large to carry out the work of the federation throughout the state. The federation and all county and district societies may appoint agents for the purpose of investigating or otherwise assisting lawfully empowered officials in the prosecution of persons charged with cruelty to animals. Appointed agents must have training and experience in activities relating to prevention of cruelty to animals or enforcement of laws relating to cruelty to animals. The federation may make bylaws as are necessary to implement its authority under this chapter and under chapter 317A.

**Subd. 1a. Minnesota Humane Society; continuation confirmed.** The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, is confirmed and continued as a nonprofit organization under chapter 317A.

**Subd. 1b. Independent organizations; powers of the federated humane societies. (a)** The Minnesota humane society, also known as the Minnesota Society for the Prevention of Cruelty, and the Minnesota federated humane societies are not affiliated with each other or with the state of Minnesota.

**(b)** The Minnesota federated humane societies have the powers given to it under this chapter.

**Subd. 2. Unauthorized use of names prohibited.** It is unlawful for any organization, association, firm or corporation not named in this chapter to refer to itself as or in any way to use the names Minnesota federated humane societies, Minnesota Society for the Prevention of Cruelty, the Minnesota Humane Society, or any combination of words or phrases using the above names which would imply that it represents, acts in behalf of or is a branch of the society or the federation.

**Subd. 3. Powers and duties.** The federation and the society must each be governed by a board of directors designated in accordance with chapter 317A. The powers, duties, and organization of the federation and the society and other matters for the conduct of the business of the federation and the society are as provided in chapter 317A and in the articles of incorporation and bylaws of each organization.

### **343.06. Purpose of federation**

It shall be the purpose of the state federation of county and district humane societies to assist in the enforcement of the laws for the prevention of wrongs to animals; to assist in the organization of district and county societies and give them representation in the state federation; to aid such societies and agents in the enforcement of the laws for the prevention of wrongs to animals

which may now or hereafter exist, and to promote the growth of education and sentiment favorable to the protection of animals.

### **Minnesota Case Law**

#### ***In Re Block*, 727 N.W.2d 166 (Minn. App. 2007).**

McDuffie purchased land from Block, upon which he planned to relocate his professional dog-breeding facility. McDuffie was legally required to obtain a Conditional Use Permit from the county board, and as part of his application indicated that the adult dogs kept at the facility would be surgically “debarked.” The board approved the CUP, including the debarking condition. The Minnesota Federated Humane Society (“MFHS”), with others, brought an appeal from the board’s decision to grant the CUP. As part of the appeal, the appellate court considered whether the MFHS had standing to bring its own appeal.

MFHS argued that it had standing pursuant to its legislative enactment under chapter 343. The court agreed, finding that MFHS, pursuant to its statutory purpose, was the party best equipped to provide the county board with relevant evidence on the debarking procedure and on animal cruelty concerns that would arise out of operation of the kennel.

#### **343.10. County and district societies.**

A county society for the prevention of cruelty to animals may be formed in any county and a district society for the prevention of cruelty to animals may be formed in any group of two or more contiguous or noncontiguous counties or parts of counties by not less than seven incorporators. County and district societies shall be created as corporations under chapter 317A and as provided in the bylaws of the state federation. No county or district society may conduct investigations outside the boundaries of the county or counties included in the county or district society.

### **No Case Law Found.**

#### **343.12. Duties of peace officers**

Upon application of any agent appointed by the federation or a county or district society, it shall be the duty of, any sheriff or the agent's deputy or any police officer to investigate any alleged violation of the law relative to cruelty to animals, and to arrest any person found violating those laws. It shall also be the duty of those officers to take possession of any animals in their respective jurisdictions which have been cruelly treated, and deliver the same to the proper officers of the county or district for custody and care.

### **Minnesota Case Law**

#### ***State v. Woodbeck*, 2005 Minn. App. LEXIS 38 (2005).**

Defendant Daniel Woodbeck was charged with several counts of animal fighting, in violation of § 343.21. Eighteen pit bull terriers, many showing signs of malnourishment and

neglect, had been seized from Woodbeck's property, along with paraphernalia of dog fighting. The animals were all examined by an Animal Humane Society veterinarian. As per § 343.235, all the dogs were held for 10 days, then euthanized. During the discovery process, Woodbeck sought access to the dog carcasses for examination. Because such access was impossible, Woodbeck moved to suppress the evidence of the condition of the dogs. This motion was denied, and the trial court found Woodbeck guilty of all five counts.

Woodbeck challenged his conviction, arguing that his discovery rights were violated because he was not able to examine the dogs or their carcasses. The appellate court disagreed, holding that the exculpatory value of the dogs at the time they were destroyed was not apparent and the state did not act in bad faith in permitting destruction of the dogs. Additionally, Minnesota Rules of Criminal Procedure do not require the state to retain the dogs or the carcasses until a defendant chooses to examine them.

### **343.22. Investigation of cruelty complaints**

**Subdivision 1. Reporting.** Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

**Subd. 2. Police investigation.** The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

**Subd. 3. Disposal of animals.** Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.



## **Minnesota Case Law**

***Compassion Over Killing, Inc. v. Quality Pork Processors, Inc., No.50-CV-16-2658, 2017 WL 4766999, at \*2-3 (Minn. Ct. App. Oct. 23, 2017).***

*COK's application for investigation under 343.22 was quashed by the lower court and affirmed here for staleness.*

***State v. Woodbeck, 2005 Minn. App. LEXIS 38 (2005) (unpublished).***

[See facts above] Woodbeck also challenged his conviction on the basis that the destruction of the dogs violated his due process rights. The court disagreed, finding that (1) Woodbeck did not show that there was exculpatory evidence to be provided by the dogs at the time of their disposal, and (2) Woodbeck could have examined the veterinarian at trial and introduced evidence to explain the dogs' appearance.

***Minn. Council of Dog Clubs v. City of Minneapolis, 540 N.W.2d 903 (Minn. App. 1995).***

[See facts above] Upon remand, the district court found that §§ 343.22, 343.235, and 343.29 violated the Fourteenth Amendment of the U.S. Constitution and the concurrent provision of the Minnesota Constitution and enjoined enforcement of the challenged provisions within the City of Minneapolis.

### **343.23. Expenses of investigation**

The expenses of the investigation authorized by section 343.22, including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 343.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

## **No Case Law Found**

### **343.235. Disposition of seized animals**

**Subdivision 1. General rule.** An animal taken into custody under section 343.12, 343.22, 343.29, or 343.31 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

**Subd. 2. Security.** A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting security in an amount sufficient to provide for

the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.

**Subd. 3. Notice; right to hearing. (a)** The authority taking custody of an animal under section 343.12, 343.22, 343.29, or 343.31 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.12, 343.29, or 343.31, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the

seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

### **Minnesota Case Law**

***Tow-Arnett v. City of Minneapolis, No.27-CV-15-20762, 2017 WL 1316153, at \*3 (Minn. Ct. App. Apr. 10, 2017).***

*Defendant convicted for owning illegal exotic animals alleged that they did not receive adequate notice of the seizure of the animals. Court held that the city leaving a copy of the warrant and list of animals seized at his home when the seizure occurred (as well as notice of statutory hearing requirements eight days later) was sufficient.*

***Minn. Council of Dog Clubs v. City of Minneapolis, 540 N.W.2d 903 (Minn. App. 1995).***

[See case law discussion under § 343.22]

***State v. Woodbeck, 2005 Minn. App. LEXIS 38 (2005) (unpublished).***

(Unpublished opinion) Defendant's convictions of animal fighting were affirmed because there was no error in denying his motion to suppress evidence from the examination of the dogs that were euthanized and cremated by animal control officers, when the evidentiary value of the dogs was not apparent at the time they were destroyed and the dogs were disposed of in accordance with Minnesota law; in accordance with Minn. R. Crim. P. 9.01, subd. 1(4), defendant was allowed to inspect the veterinarian's reports regarding the physical examination of the dogs. *State v. Woodbeck, 2005 Minn. App. Unpub. LEXIS 38 (2005).*

### **343.29. Exposure of animals; duty of officers**

**Subdivision 1. Delivery to shelter.** Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.

**Subd. 2. Disposal of animals.** Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed

of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.

**Minnesota Case Law**

***Minn. Council of Dog Clubs v. City of Minneapolis*, 540 N.W.2d 903 (Minn. App. 1995).**

[See case law discussion under § 343.22]

**343.37. Decompression chambers prohibited.**

A person may not use a decompression chamber to destroy an animal. A violation of this section is a misdemeanor.

**No Case Law Found.**

## **ANIMAL FIGHTING PROVISIONS**

### **343.31. Animal fights prohibited**

**Subdivision 1. Penalty for animal fighting; attending animal fight.** A person who:

- (1) promotes, engages in, or is employed in the activity of cockfighting, dog-fighting, or violent pitting of one domestic animal against another of the same or a different kind;
- (2) receives money for the admission of a person to a place used, or about to be used, for that activity;
- (3) willfully permits a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or
- (4) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity is guilty of a felony. A person who purchases a ticket of admission or otherwise gains admission to that activity is guilty of a misdemeanor.

**Subd. 2. Presumption of training a fighting dog.** There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

- (1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and
- (2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

**Subd. 3. Presumption of training fighting birds.** There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

- (1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or
- (2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

**Subd. 4. Peace officer duties.** Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer

or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

**Subd. 5. Disposition. (a)** An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

**(b)** The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

**(c) (1)** The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

**(i)** a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

**(ii)** a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

**(iii)** a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

**(2)** The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either **(i)** authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or **(ii)** use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

**(3)** The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that **(i)** the animal is physically fit, **(ii)** the person claiming an interest in the animal

can and will provide the care required by law for the animal, and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

**Subd. 6. Photographs. (a)** Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

**Subd. 7. Veterinary investigative report. (a)** A report completed by a Minnesota licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

### **Minnesota Case Law**

#### *Sufficiency of Evidence:*

**State v. Su Vang, No. 27-CR-17-10914, 2020 WL 1488334, at \*3-4 (Minn. Ct. App. Mar. 23, 2020).**

Court held that the language in the statute “engages in” encompassed all activity pertaining to the general activity of cockfighting – here including training chickens and not just actively fighting them on the date of the alleged misconduct. This definition meant that the evidence presented at trial – including social media posts, expert testimony, and the condition of the recovered animals – was sufficient for the jury to find beyond a reasonable doubt that the defendant was engaged in illegal animal fighting.

**State v. Woodbeck, 2005 Minn. App. LEXIS 38 (2005) (unpublished).**

[See case law discussion above] The court also cited with approval the correctness of the procedures followed by the state in giving notice to Woodbeck of the availability of a hearing to

obtain the return of the animals and the length of time the state waited before disposing of the dogs.



## **OTHER MISCELLANEOUS PROVISIONS**

### **609.294. Bestiality**

Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.

### **Minnesota Case Law**

*State v. Bonynge*, 450 N.W.2d 331 (Minn. App. 1990).

Defendant Robert Bonynge was convicted of bestiality. Based upon information from an informant, police executed a search warrant at Bonynge's home for pornography involving underage girls and dogs. The police found numerous videotapes of bestiality involving dogs and overage females. Bonynge challenged the validity of the search warrant on the grounds that (1) the warrant was issued with insufficient particularity, (2) without a sufficient showing of probable cause, (3) allegedly obscene material was seized without a prior adversary hearing, and (4) police seized every film and videotape in his home, regardless of content. Bonynge also challenged the sufficiency of evidence for his conviction.

The appellate court upheld the issuance of the warrant. The court found that a description of "pornography films involving female juveniles and a Rottweiler dog" was sufficient particularity for the warrant. The court also found that the facts sworn to in an affidavit that accompanied the warrant application, facts detailing the information from the informant, was sufficient for probable cause. The court dismissed the need for a prior adversary hearing because Bonynge was charged with bestiality, not obscenity. The court declined to extend required obscenity procedures to bestiality charges. Finally, the court found that the officers' actions in seizing all the material did not show flagrant disregard for the bounds of the search warrant because viewing each film prior to seizure would have taken a very long time and severely inconvenienced Bonynge.

The court affirmed Bonynge's conviction based on the evidence. The court emphasized a broad construction of the term "carnally know," holding that "masturbation of [a] dog and [female] participation in oral and vaginal intercourse with the dog fall within the ambit of the Minnesota bestiality statute."

### **97B.011. Dogs Pursuing Big Game**

(a) A person who observes a dog wounding, killing, or pursuing in a manner that endangers big game may kill the dog:

(1) at any time, if the person is a peace officer or conservation officer; or

(2) between January 1 and July 14, if the person is not a peace officer or conservation officer and the discharge of firearms is allowed.

The officer or person is not liable for damages for killing the dog.

(b) Paragraph (a) does not apply to a dog used in compliance with section 97B.207.

### **Minnesota Case Law**

***State v. Graham*, 2003 Minn. App. LEXIS 138 (Minn. App. 2003).**

Defendant John Graham challenged the trial court's restitution order on the grounds that the trial court failed to consider his affirmative defense and the record did not support the amount of the restitution. Graham shot and killed two dogs, a German Shepherd and Labrador Retriever owned by Brad Athmann, that were allegedly chasing a deer. The appellate court affirmed the restitution order, holding that the plain meaning of the statute indicated that § 97B.011 cannot be offered as an affirmative defense when the defendant has pled guilty to the underlying offense.