

163.3E Emergency measures — abandoned animals — dispositional proceeding.

1. *a.* The department shall file a petition with the district court for the disposition of an animal seized pursuant to [section 163.3D](#) as soon as practicable.

b. The court shall notify the department and all interested persons of the dispositional proceeding in a manner determined reasonable by the court. The court shall hear the matter within twenty-four hours from the time the department's petition is filed. The court may grant a continuance by a motion of the department or upon petition by an interested person. However, the interested person shall post a bond or other security with the department in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the animal for the duration of the continuance.

2. Upon a determination by the department that exigent circumstances exist, the dispositional proceeding may be conducted by an administrative law judge in the same manner as an emergency adjudicative proceeding pursuant to [section 17A.18A](#). The administrative law judge shall notify the department and all interested persons of the dispositional proceeding in a manner determined reasonable by the administrative law judge given the circumstances in the case. The procedures provided in [this section](#) may be supplemented or modified by a declaration or proclamation issued by the governor or an order issued by the secretary or the secretary's designee pursuant to [section 163.3D](#).

3. *a.* A court or administrative law judge shall issue an order for the disposition of the animal after making any of the following determinations:

(1) That no interested person holds a legal interest in the seized animal. In that case, the animal shall be deemed abandoned and the order shall extinguish all prior legal interests in the animal. The order shall grant an undivided ownership interest in the animal free from any security interest or other agricultural lien or encumbrance to the department.

(2) That an interested person holds a legal interest in the seized animal, and the department has reasonable suspicion to believe that the animal has been exposed to an infectious or contagious disease. In that case, the order shall provide for the disposition of the animal in the same manner as if the department had identified the animal as having been exposed to the infectious or contagious disease under the authorization provided in [section 163.3D](#).

(3) That a person holds a legal interest in the seized animal, and there is no reasonable suspicion that the seized animal has been exposed to an infectious or contagious disease. In that case, the order shall direct the department to transfer custody of the animal to the interested person. In the event the animal is returned to the interested person, the department shall not be subject to any claim for damages caused by the seizure if the department's actions were taken pursuant to the department's emergency efforts to establish and maintain quarantine in response to a disease outbreak, as set forth in [section 669.14, subsection 3](#).

b. A reasonable suspicion asserted by the department may be based on any credible evidence that shows the animal's possible exposure to an infectious or contagious disease or the animal was abandoned. This paragraph "b" does not require the department to conduct a test of an animal to determine whether an animal has been exposed.

c. If two or more interested parties may be transferred custody of an animal by the department pursuant to paragraph "a", subparagraph (3), the court or administrative law judge shall order the department to transfer the animal to the owner or otherwise to the interested person best able to care for the animal without prejudicing the rights of any other interested person. However, in any cause of action brought by an interested person contesting the order to transfer under [this subsection](#), the department shall not be included as a party.

4. *a.* In a dispositional proceeding conducted by a court or administrative law judge under [this section](#), or in a separate cause of action brought by the department against an interested person, the court or administrative law judge may award the department all of the following:

(1) An amount necessary to reimburse the department for expenses incurred in seizing and maintaining an abandoned animal as well as any costs for the disposition of the abandoned animal.

(2) Expenses related to the investigation and adjudication of the case.

b. In a dispositional proceeding conducted by a court under [this section](#), or in a separate cause of action brought by the department against an interested person, the court may award the department court costs and reasonable attorney fees.

c. An award ordered under [this subsection](#) shall be paid by an interested party who is transferred a seized animal by the court or administrative law judge, or the owner of the seized animal as determined by the court or administrative law judge. The amount awarded the department shall be subtracted from the proceeds, if any, received by the department from the disposition of the animal. Any amount awarded by a court shall be taxed as part of the costs of the cause of action.

d. If more than one interested person holds a legal interest in the animal, the court or administrative law judge shall calculate the respective contributions of the interested persons based upon the percentage of legal interest in the seized animal held by each interested person. The amount paid to the department shall be sufficient to allow the department to repay the livestock remediation fund as provided in [section 459.501](#) and fully reimburse the department for all costs, fees, and expenses incurred by the department under [this section](#).

[2020 Acts, ch 1036, §8, 16](#)

Referred to in [§163.3D](#), [163.3F](#), [459.501](#)