

**§ 19A-46. Powers; magistrate's order; execution of order; petition; notice to owner.**

(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge. (1979, c. 808, s. 1.)