

# Estate Planning and Your Pets

What are you waiting for? Take the appropriate steps today to make sure that your beloved animals are cared for tomorrow if something happens to you.

**W**e plan for so many happy life events like birthday parties, graduations and weddings, yet we frequently postpone planning the major life event we all face — our death and distribution of our earthly possessions. Simply put, life happens despite our best-laid plans (or lack of planning). We like to think our family or friends will take in our pets and love them the same way we do — but that is not always the reality.

Therefore, it is our responsibility to make plans now for our pet's future to ensure they will be provided the level of care we want them to receive should we die or become incapacitated.

In the not-too-distant past, the inclusion of pets in estate planning was a novelty that created stories about wealthy heiresses leaving their cat or dog 10 million dollars, a hotel penthouse and a full-time staff to care for them. In 2003, there were less than a dozen attorneys with expertise in this area.

As pet status has evolved over the past 20 years from owned property to members of the family, laws are fortunately beginning to reflect the change in attitudes — so that it is now possible to legally provide for a pet's future care with provisions established in a pet trust.

## What is a pet trust?

Simply put, a pet trust is a legal arrangement that provides specified terms and care for one or more pets in the event of the owner's death or disability. The person who establishes the pet trust is called



**Because there may be different types of pet trusts to choose for your particular situation, it is strongly recommended that you utilize a legal advisor.**

the “settlor” and the entrusted person or entity responsible for handling the funds is the “trustee.” The trustee then delivers the pet to the designated caregiver and makes payments to the designated caregiver to cover the pet's expenses.

There are different types of pet trusts each with advantages and disadvantages, and most states have pet trust laws — but the terms vary. For example, in some states the trust is in effect for the life of the animal, while in others the trust is in effect for the life of the animal or for 21 years (whichever comes first).

This is crucially important for long-lived pets such as horses,

parrots and primates, for example. Because this is such a complex matter, a legal advisor can help you choose the best solution for you in accordance with the state laws. (Note: At present, Kentucky, Louisiana and Minnesota do not have pet trust laws at all.)

In the traditional pet trust, the pet owner has the power to leave specific detailed instructions regarding pet care. There is peace of mind knowing that your pet will be cared for in the manner you want, which may include a particular food, playtime and routine veterinary visits twice a year. End of life decisions and provisions for burial,

*continued on next page*

cremation or memorial arrangements can also be specified.

The most important consideration of a pet trust is choosing a committed caregiver to care for the pet when the owner can no longer do so. Because situations change, it is wise to select at least one — or more — alternate caregivers and trustees in case one is unwilling or unable to fulfill the position.

Things happen — someone in the family develops allergies, they live in a place that doesn't allow pets or maybe the person and pet aren't compatible. Since the two positions come with immense responsibility, it's best to discuss it with the people before actually designating them in the trust.

### Other options to consider

If you live in a state without pet trust laws or perhaps have a pet that could live longer than 21 years, there are other alternatives available. Again, an attorney can help you with solutions.

It is possible to make informal arrangements — oral or written

— with family, friends, a veterinarian, pet sitter, neighbor, etc. for the care of a pet without the use of an attorney. However, the drawback is that the agreement isn't legally enforceable.

### Why wills are not a good idea

People often think of wills as the best way to settle their estate and want to include a provision for their pets. However, this option is not advised for the safety of the pet. Provisions in a will do not go into effect until you die, and they must go through "probate" — that is, they must be declared valid by a court.

This can sometimes be a long process because the will may be contested by beneficiaries, for example, and the provision for the pet cannot be fulfilled until the dispute is resolved. As a result, a long gap of time can take place before the pet is actually cared for. Also, should the caregiver no longer want to care for the pet after the estate is settled, there is no legal recourse to find another caregiver and home. Additionally, it doesn't protect your

pet if you become incapacitated before you die.

### When you have no caregivers

What if a person lives alone, has no family or friends to designate as caregivers for their pet? Amy Shever, founder and director of 2nd Chance 4 Pets, suggests three possible options, including animal care panels, sanctuaries and perpetual care programs.

Shever recommends talking to your veterinarian, family, friends, pet sitter, etc. and establishing an "animal care panel" which then would interview and choose the person that would provide the best care for the pet.

If you consider a lifetime care facility such as a sanctuary or perpetual care facility, there are many considerations to think about and even more questions to ask. Firstly, understand that such a setting cannot provide the kind of attention given in a home. Shever recommends that you thoroughly evaluate the facility or program and consider a legal contract for

## Five Steps to Estate Planning

- **Choose the best plan:** There are several options available — including pet trusts — each with advantages and disadvantages. Talk to an attorney to choose the best plan for you and your pet based on your preferences and state laws.
- **Choose caregiver(s):** Who will give the best care to your pet in the event of your death or disability? You may need someone specifically for immediate care and a different person for the lifetime care, or it may be the same person. This should be arranged with the individuals ahead of time because it's a huge responsibility. Always carry an emergency pet ID card with the names and telephone numbers of people to contact.
- **Written plan:** Here, you state exactly how you

want your pet to be cared for. Do you want a certain food to be provided, professional grooming once month, two or three vet visits a year? If you have more than one pet, do you want them to stay together? If your pet dies and money is left in the fund, how do you want it distributed? Many people donate it to an organization.

- **Fund it:** This covers all the expenses to care for your pet such as food, toys, supplies and vet care. It also may include a payment to the caregiver: The amount and any stipulations is up to you.
- **Make it known:** Now that you have your plan in place, let someone know where to find it. It does your pet no good if no one knows.

As pet status has evolved over the past twenty years, laws are beginning to reflect the belief that animals are part of the family.

the arrangement. She also recommends an on-site visit.

Questions to ask include: how old is the program, how is it funded, what happens to the animals if the program closes, can the pets be adopted, what type of veterinary care is provided, what are the pets fed and if they accept senior and/or special needs animals.

### Carry a 'Pet Alert' card

Regardless of the type of plan you choose, you should keep a Pet Alert card in your wallet to notify people that you have a pet at home. The card identifies emergency caregivers and telephone numbers.

According to the American Pet Products Association's 2015-2016 National Pet Owners Survey, 65 percent of U. S. households own a pet; that's 79.7 million homes. Approximately 85 percent of people consider their pets to be part of the family, and according to 2nd Chance 4 Pets, over 500,000 pets are orphaned annually due to an owner's death or disability.

One part of responsible pet ownership is providing for their lifetime care should they outlive us. Shelters are full of pets whose owners died without making provisions. Estate planning for your pet ensures peace of mind that your beloved pet will be cared for if you no longer can. — Ramona Marek, Ms Ed. 🐾

## Resources for Readers

Fortunately, today's pet owners have more resources available with extensive, comprehensive information on estate planning for pets. A few include:

- **2nd Chance for Pets** is a 501(c) (3) advocacy group founded by Amy Shever and run by volunteers committed to providing information and solutions — including pet trusts — to help pet owners ensure “lifetime care” for their pets. The website is full of valuable resources to help with estate planning for the future of pets. Visit [www.2ndchance4pets.org](http://www.2ndchance4pets.org)
- **The American Society for the Prevention of Cruelty to Animals (ASPCA)** has many articles about estate planning for pets including a pet trust primer, planning for horses and exotic pets and frequently asked questions. Visit [www.aspc.org/pet-care/planning-for-your-pets-future](http://www.aspc.org/pet-care/planning-for-your-pets-future) and follow links to other related articles.
- **The Humane Society of the United States (HSUS)** has an estate planning guide, also available in Spanish, in a printable PDF. You can visit [www.humanesociety.org/animals/resources/tips/providing\\_for\\_pets\\_future\\_without\\_you.html](http://www.humanesociety.org/animals/resources/tips/providing_for_pets_future_without_you.html)

There are many attorneys who specialize in estate planning and pet trusts.

Two well-known experts include:

- **Gerry W. Beyer** at [www.professorbeyer.com](http://www.professorbeyer.com)
- **Rachel Hirschfeld** at [www.pettrustlawyer.com](http://www.pettrustlawyer.com)



THINKSTOCK