

Providing For Your Pets: A Legal Perspective

By R. Douglas DeNardo

Experience has taught us that people, in general, do not enjoy acknowledging their mortality. That's why many of us have put off writing a will or creating an estate plan, even though we know it's necessary. It is also accurate to say that even those who have prepared an estate plan, may not have considered their pet. According to the AARP, less than 30% of Americans with pets who have wills, have provided for them.

Animal Rights law is a very new area and even today is only taught at a handful of law schools. When you are discussing estate issues, it is very important to understand the law in your state of residence or your wishes may be overturned in a court of law. Currently, pets are considered property under Pennsylvania law and you cannot leave property to property. Therefore, even if you put a clause in your will leaving all your estate to Fluffy or Fido, it will not stand up through the probate process.

Nonetheless, there are measures that you can take to provide for your pet in the event of your incapacitation or death. In some states, you can set up a trust to care for your pet. While this is not currently legal in Pennsylvania, a proposal was set forth on April 4, 2005 for the Pennsylvania General Assembly to adapt the Pennsylvania Uniform Trusts Act, including Section 7738, which would allow for the creation of a trust to care for animals alive during the settlor's lifetime. For updates on the passage of this legislation, you can consult www.legis.state.pa.us.

In the meantime, you may want to consider these alternatives to safeguard the future of your pet:

- Talk with your family and friends about who would be willing to care for your pet(s). You may then want to leave your pet(s), as well as a small sum of money to the caretaker for your pet(s)' needs. Keep in mind though, there is no way to enforce that the money be used to care for your pet(s), so choose carefully. If they feel they truly cannot take on the responsibility, better for your friends or family to say no now so you can make alternate arrangements.
- Only leave enough to cover what your pet(s) will need. (Dog care averages \$780 - \$1,500 a year, depending on size, while cat care averages \$640 a year). The more money
- you leave, the more likely it may be challenged by your heirs and relatives.
- Consider leaving a sum to a no-kill shelter or pet retirement home, with the stipulation they will care for or find a home for your pet.
- Don't forget about your power of attorney. Should you become seriously ill or incapacitated, the person you give power of attorney to will not only make financial decisions, but may also have to decide what is best for your pet(s). Make sure that you make your wishes known.
- Finally, you should always discuss your estate needs with your attorney, so your specific situation can be evaluated and addressed.

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