

Pet Trusts

Planning for the Long-Term Care of Companion Animals

By Nancy Blaney



What was once regarded as an almost-eccentric notion of the very rich has moved into the mainstream. Plans for putting our companion animals in our wills are an important part of estate planning.

“Pet trusts” are joining college funds and 401(k)s on the list of necessary consumer financial plans. Increasingly, animal guardians are asking the question: What will happen to my beloved companions if something happens to me?

At its simplest, a pet trust is a specific legal arrangement providing for the care of companion animals in the event of the owner’s death or incapacitation. But the term has become a catch-all for the idea of individuals taking steps to ensure continuing care for their pets in an emergency.

The brutal truth is that, if you die or are suddenly unable to care for your animal companion, and you do not have a plan, your beloved pet is more likely to wind up in a shelter than with a family member or neighbor.

Amy Shever, founder of 2nd Chance 4 Animals and PetGuardian, which assists subscribers in establishing pet trusts, says, “There is no reason thousands of healthy, adoptable pets should be euthanized each year just because their owners die.”

How do you keep this from happening to your beloved companion animal(s)?

A number of sources provide fairly detailed guidance in setting up pet trusts, including how to calculate how much money will be needed over the expected remaining lifetime of

your pet(s) (see “Resources”). Most advise talking it over with an attorney to ensure that arrangements are incorporated properly into your overall estate plans. In general, here is what you must be prepared to do:

- Select a trustee and primary and secondary caregivers.
- Identify your pet(s) in a way to prevent fraud (microchip, DNA).
- Put your pet care instructions in writing (food preferences, exercise routine, whether certain pets need to stay together, etc.). Note any health problems, medications or treatments, schedule of vet visits.
- Make provisions for regular inspections by the trustee.
- Provide the funding needed to administer the trust, sufficient resources to cover pet care expenses, and specify how funds are to be distributed (annually, quarterly). You do not want to overfund the trust as this can be challenged in court. Specify how any funds remaining after the death of your companion animal(s) should be distributed (person, charity), known as the “remainder beneficiary.”
- Provide for the final disposition of your companion animal(s).

If there is no one you wish to designate as the caregiver, you may elect to use a service that will place your pet in another home or have her retire to a sanctuary where animals live in a “group home.” Make sure you know ahead of time what the service will do. If your companion animal has been an “only child” or is not a “people person,” then a communal living situation may not be in her best interests. Moreover, costs for

permanent care at a sanctuary can be very high. One way to deal with this would be through an insurance policy made payable to the facility or the trust executor.

Amy Shever offers another alternative: reliance on an “Animal Care Panel,” which may consist of a vet, family member, and others. The individual leaves her home and companion animal to the panel, which is charged with finding a caregiver to live in the home rent-free in exchange for caring for the pet.

If you decide on a “life-care” facility as your back-up plan, what is the facility’s back-up plan? As David Congalton and Charlotte Alexander advise in their book, *When Your Pet Outlives You*, examine the financial health of any sanctuary you are considering. How long has it been around and what are its long-term prospects? The authors wonder, “Is this the future of pet care, or just a passing fancy?”

According to the Web site www.estateplanningforpets.org, the following states have pet trust laws: Alaska, Arkansas, Arizona, California, Colorado, District of Columbia, Florida, Idaho, Illinois, Iowa, Kansas, Maine, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Tennessee, Texas, Utah, Washington and Wyoming. The Web site provides information on existing laws and legislation as well as links to the states’ sites; it’s advisable to check the state sites themselves for any updates. These state laws are not recognized under federal tax law and provisions

differ from state to state: Some laws allow trusts to last for the lifetime of the animal(s), while others allow them to last only a preset length of time, with 21 years being a common maximum. You should find out if your state allows the trust fund to cover *any* companion animal you have at the time of your death or incapacitation, or only those you have at the time the trust is established. Be sure you know if you must amend or update the existing trust or establish a new one for any new companion animals you bring into your home.

If establishing a pet trust is not possible in your state, there are other options. They include:

- **Conditional Bequest:** Leave your companion animal and the money to care for him or her to a caretaker named in your will. The disadvantage to this approach is that it takes effect only upon your death (not incapacitation) and is subject to delay due to probate. Also, there is no legal guarantee that your wishes will be honored.
- **Make a caregiver** (whether a person or a facility) the beneficiary of an insurance policy with the proviso that the funds are to be used for the care of any surviving pet(s).
- **To enjoy certain federal tax advantages now,** provide a lump sum to be held for future use to a trusted person who will serve as your compan-

ion animal's caretaker. Seek guidance from someone knowledgeable about estate planning.

- **To ensure care for your pets in case of an emergency** (sudden illness, temporary job transfer where your pet cannot accompany you), grant a third party power of attorney. As described in *When Your Pet Outlives You*, this individual "will see that your wishes are carried out while you're incapacitated. You are obligated to provide funds for pet care. Power of attorney can be prepared to take effect upon your physical or mental incapacity."

Of course none of this does any good if no one knows what provisions you have made for your pet's care if something happens to you. Keep the information with you, just as you do with identification, medical conditions and emergency contact information. If you are in an accident, for example, it will be easy to determine that you have a companion animal at home who needs care. Also keep the information posted visibly in your home as well, along with a set of care instructions. And make sure someone has a set of keys! (This is even helpful in the event of a temporary emergency, such as a long flight delay or family emergency.)

Having a legal, enforceable arrangement is best because it ensures that your wishes are carried out. Do something, though. As Amy

As you discuss your estate plans with a trusted attorney or legal advisor, consider including DDAL or DDAF as a beneficiary of your estate. The process is surprisingly easy, and we can advise you on the type of bequest that may work best for you. Whether you're interested in DDAL's efforts to reduce the pain and suffering of non-human animals through legislative initiatives, or DDAF's education programs such as Spay Day USA or Beyond Violence, there's no better feeling than knowing that you've helped secure the future for the animals. Plus, individuals who include DDAF and DDAL in their estate plans become members of our prestigious Guardian Angel Society and are acknowledged in perpetuity for their generous gifts made with profound conviction and forethought. Contact us at (202) 546-1761 or development@ddaf.org for a free planned-giving brochure today.

Shever says, at the very least, "make sure that, in case of an emergency, you have some plan in place and a responsible person committed to taking care of your pet." 🐾

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RESOURCES (Check DDAL's Web site for even more resources!)

When Your Pet Outlives You: Protecting Animal Companions After You Die

by David Congalton and Charlotte Alexander (2002, New Sage Press; see "Bookbag" on page 20).

2nd Chance 4 Pets and PetGuardian www.2ndchance4pets.org and www.petguardian.com (Los Gatos, CA)

As mentioned in the article, the former is an educational resource, and the latter provides information about and assistance in preparing pet trusts.

Estate Planning for Pets Foundation www.estateplaningforpets.org (Phoenix, AZ)

This Web site is a comprehensive educational resource for animal guardians and also lists organizations offering programs for the care of companion animals upon the death or disability of the guardian.

The Humane Society of the U.S. www.hsus.org

Click on "Pets," then "Pet Care," and see the section on "Providing for Your Pet's Future Without You." Call (202) 452-1100, or email petsinwills@hsus.org.

www.lawyers.com

Click on "Research Legal Topics," then "Trusts and Estates," then "Estate Planning," and see the section titled "Pet Trusts."