

Tails

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Trusts and Estate Planning

PREPARE FOR FIDO'S FUTURE



Pet TRUSTS

Long-term planning for your animal companion
By Christina Cottini

Many pet guardians consider their furry friends to be part of the family. Being part of a family typically entails inclusion in other family members' wills. However, when it comes to writing a will or planning one's estate, pets are all too often overlooked.

According to Chicago estate planning attorney Lindsey Markus



“Unfortunately, an estate plan with only a basic will is insufficient.”

(LindseyMarkus.com), 40 states and the District of Columbia currently have pet-trust laws enacted or statutes allowing for the creation of a pet trust.

Markus says, “Every pet owner* appreciates the emotional bond they have with their pet. But unfortunately the law views pets as property. Without proper planning, the decision of who should care for a pet is determined in the same way as who gets Aunt Martha’s vase. In order to

ensure pets are properly cared for in the event of an owner’s death or disability, a pet trust should be established.”

Because pets are legally considered property, you cannot leave money directly to your pet in your will. Any provision requesting that someone

take care of your pet is simply that—a request. The court system retains no power to enforce a pet owner’s wishes if just stated within the will.

It is imperative to establish a legally binding method of ensuring that your pet is cared for if you die or become disabled. In addition to making informal, temporary arrangements for the care of your pet, you must also make formal arrangements that specifically address the long-term care of your pet. Opting for a written versus a verbal agreement helps to safeguard your pet’s future. Markus says, “The very grim reality is that each year hundreds of thousands of pets end up in shelters or—even worse—are euthanized because pet owners neglected to make formal arrangements for their care.”

To prepare for the unexpected now, there are several things you can do. First, find at least two trustworthy people to provide care for your pet. Make sure that these people have access to your home, instructions for the feeding and care of your pet, and the name of your vet. Your pet will be upset enough without you there, so plan to keep as much familiarity around as possible.

According to Markus, “Pet trusts are not just for the Leona Helmsleys of the world. More and more, clients recognize the need to plan for their pet’s care. Unfortunately, an estate plan with only a basic will is insufficient. All of the decedent’s assets would have to go through probate, the judicial process by which an estate is administered. Probate is costly, time intensive, and everything becomes a matter of public record. Most devastating for a pet—all probate assets are frozen. In Illinois, this is a minimum of six months. Thus, during probate, funds are not accessible to care for the decedent’s pets.”

A trust created separately from your will provides certain benefits. It can be written to exclude certain assets from the probate process so that funds are more readily available for the care of your pet. It can also be structured to provide for your pet even during a lengthy disability. Most importantly, a trust becomes effective at the date you determine.

If your state allows the establishment of a pet trust, the first step in its creation is to name a trustee and a caregiver. These should be two different people to enforce a system of checks and balances. The designated caregiver receives regular payments over the pet’s remaining life dispersed by the trustee from a fund you set up, so you must determine the amount of money needed to fund the trust annually.

The level of care given to your pet is specified within the trust—you should provide comprehensive information, including details such as health history, eating habits, behavior, medications, special needs, and your wishes for final disposition of your pet. Make sure that you communicate detailed instructions for your pet’s food and diet; daily routine; favorite toys, games and activities; housing or sleeping requirements; personality traits; fears or bad habits; grooming; socialization; and medical care, including your preferred vet. Decide on the duration of your trust. There must be a time limit for the trust to be considered valid.

Being a guardian of a pet is more than just a privilege—it is a responsibility. Pets provide us with a multitude of benefits, and in turn we must ensure that they are receiving the best care we can give. By planning for the long term, we can ensure that our furry family members continue to receive the loving care they deserve if we are unable to provide it ourselves. ■



Visit TailsInc.com for our pet trust checklist and power of attorney tips.

**Although Tails prefers to use the term guardian rather than owner, legal discourse necessitates the use of owner as a means of clarifying a person’s lawful rights and responsibilities in regard to having an animal.*