

Pets and Estate Planning



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How to Care for Your Pet After You Die

Although you cannot leave money directly to your pet in your Will, there are other options to make sure that your pet is taken care of after you die.

You can leave your pet to someone in your Will or Trust. Choosing a new owner for your pet is one of the most important provisions you can make for your pet. You should speak with the new owner first and let them know your wishes regarding your pet. You want to make sure that they are willing and able to take care of your pet. Because circumstances change, you may want to name an alternate beneficiary for your pet.

You may want to leave the new owner some money to care for your pet. While leaving the money and your pet to a new owner is legally enforceable, you cannot stipulate that they use the money toward the care of your pet.

You could say that the new owner will receive the money as long as

he/she cares for your pet until its death, but this is difficult to enforce. The executor of your estate has the responsibility to enforce the terms of your Will as long as the estate is open with the probate court. Usually, it takes about six months to a year for the probate to get wrapped up. Because it is difficult to enforce this, you want to leave your pet to someone you trust to take good care of it.

Keeping your estate plan up to date is very important when caring for your pets. If your pet dies before you, the money you intended for your pet's care may still go to the beneficiary. To prevent this from happening, you can make the clause conditional so that the money is only given if your pet is still alive.

If you don't make any plans for your pet, then your pet will go to the residuary beneficiary named in your Will. Without a Will, your pet will go to your closest relative, according to the laws of intestacy.

Why Can't I Leave Money to My Pet?

Put simply, the law views pets as *property*. Property cannot own another piece of property, only people can. Because a pet cannot own property, it cannot be named as a beneficiary in your Will.

If you do name your pet as a beneficiary, the property you tried to leave it will probably go to the alternate beneficiary or residuary estate. Likely, your pet will not receive anything and the result will not be what you intended. It is important to use one of the legally valid ways to make sure your pet receives proper care after you die.



Pet Trusts: A Way to Care for Your Pets



Pet trusts are another option to make sure your pet is cared for after you die. This type of trust is created to provide for the care of your pet during its lifetime. Indiana's pet trust law was enacted in 2005. When creating a pet trust, there are several issues to consider.

First, you need to name the pets you want cared for. Your trust can involve any of your pets that are alive while you are alive. However, it ends upon the death of your last surviving pet. You cannot

create a pet trust to continue indefinitely, such as for your pet's offspring.

Then, you need to name someone to care for your pets (the trustee). The trustee will be responsible for your pet's day-to-day care so you should name someone that you trust. You should also ask the trustee first to make sure that they are willing to care for your pet. You should also name a backup trustee, in case your first choice can't take your pet when the time comes.

Next, you want to consider how you will fund the trust. You should try to estimate how much the new owner will need to care for your pet. The appropriate amount of money will depend on the pet's age, condition, and species. You should know that if you set the amount too high, a family member could challenge it in Court and the judge may lower it. So choose an appropriate amount of money.

Lastly, the caretaking instructions are an important and detailed section of your pet trust. Owners often specify everything for the pet's care from its favorite food and toys to sleeping arrangements to medical care.

You may want to name someone to receive the remainder of the trust. If you leave more money than is necessary for the care of your pet, or if your pet dies early, then you want to name someone to receive the leftover money.

You can name someone in your pet trust to enforce the terms of the trust and make sure the money is being used appropriately. A pet trust can even take effect before your death if you become incapacitated. Your Will, however, only takes effect after your death.

Did You Know?

Leona Helmsley, the billionaire real estate and hotel tycoon, left \$12 million to her dog, Trouble. A judge ruled that the \$12 million exceeded the amount necessary for the dog's care. So the inheritance was diminished to \$2 million, to ensure that Trouble would receive the highest care.



Mrs. Helmsley and her dog, Trouble
PC: The New York Times