

Providing for Pets in a Last Will and Testament

Providing for a pet in a Last Will and Testament (“Will”) is a more formal to plan for a pet in the event of death (as compared to obtaining verbal assurances). Since a pet is considered personal property, a person can leave their pet to someone else in their Will. This means the person named in the Will becomes the new owner of the pet. A Will can also provide that a certain sum of money be paid to this new owner to cover the costs of food, grooming, vet care expenses and the like. Sample general language that may be included in a Will for a dog or other pet follows:

“In the event my dog “INSERT DOG’S NAME” survives me, then upon my death it is my desire that the following persons in the following order take, watch, care for and provide food and shelter for my dog “INSERT DOG’S NAME:” _____ . I further give, devise and bequeath the sum of _____ to the person named above who agrees to watch, care for and provide food and shelter for my dog “INSERT DOG’S NAME.” (Recommendation is for \$10,000 per dog.)

There are some problems with planning for a pet by using a Will. First, a Will only directs what happens to your property after you die. If you put provisions in your Will regarding a pet, it will not be enforceable in the event you become disabled and therefore are unable to continue to care for your pet because of this disability. If you provide for your pet in your Will, it is also advisable to have a Durable Power of Attorney (previously discussed) appointing someone else to care for your pet in the event of your disability.

Second, property left by a Will must go through probate. And the probate process does not start immediately after a person dies. Documents must first be filed with the probate court. Therefore, there will be a waiting period between death and the time an estate is opened. During this interim period, who will be caring for your pet? Further, once a probate estate is opened, it will typically remain open for a relatively long time (a minimum of six months in Missouri). Who will own or care for a pet during the probate process? One way to avoid this process is to utilize a trust as opposed to a Will.

Providing for Pets in a Trust

Providing for a pet in a Trust (“Trust”) is also more formal to plan for a pet in the event of death (as compared to obtaining verbal assurances) and takes care of some of the problems that exist when only a Will is used. Since a pet is considered personal property, the pet should be able to be assigned to a Trust and the Trust then provides for what happens to the pet in the event of death. Using this method should avoid the issue of probate discussed above. If you have a revocable living trust as part of your estate plan, you can add provisions in the trust to cover your pet.

Sample general language that may be included in a revocable living trust for a dog or other pet follows:

“In the event the Grantor’s dog “INSERT DOG’S NAME” survives the Grantor, then upon the Grantor’s death it is the Grantor’s desire that the following persons in the following order take, watch, care for and provide food and shelter for the Grantor’s dog “INSERT DOG’S NAME:” _____ . The Grantor further gives, devises and bequeaths the sum of _____ the person named above who agrees to watch, care for and provide food and shelter for the Grantor’s dog “INSERT DOG’S NAME.” (Recommendation is for \$10,000 per dog.)

In addition to using a Trust as noted above, some States (including Missouri) have specific laws that allows for a trust to be ongoing for a pet’s benefit after the owner dies. These types of trusts are generally referred to as “Pet Trusts.” With a pet trust, a certain amount of money would be put in the pet trust to cover a pet’s care. You would name one or more persons to act as a trustee of the pet trust, meaning a person who will use the money in the trust for the pet’s benefit. A caregiver will also be chosen to care for the pet and the expenses incurred by the caregiver will be paid for by the trustee. The caregiver and trustee may, but need not, be the same person.

In Missouri, a pet trust is required to terminate or end upon the pet’s death (or the death of the last pet if the trust was created to provide care for more than one pet). The trust must then provide what happens to any remaining trust assets after the pet dies. Missouri law specifically provides that the money that is put in a pet trust may only be used for its intended purpose (i.e., providing care and paying expenses related to the pet).

Senior Dogs 4 Seniors

Providing for your dog in the event or your death or disability



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If you have any questions regarding how to implement any of the planning ideas raised in this handout, please contact competent legal counsel.

Overview Headline

Dogs are part of our families. They provide us with loyalty, unconditional love, affection and companionship. But what will happen to your dog if you die or become disabled? Who will care for your dog? How can you be sure your dog will not be euthanized which, according to at least one estimate, happens to at least one-half million pets each year after the owner dies.

Believe it or not, there is such a thing as estate planning for pets. In fact, it is a growing legal area as more and more pet owners are giving serious thought to what will and should happen to their pets in the event the owner dies or becomes disabled.

Simply put, estate planning for pets involves providing for ongoing physical, emotional and financial care and support for a pet in the event you cannot do it yourself (because of your death or disability).

The purpose of this handout is to provide a brief overview of estate planning for pets. This handout is only meant to be educational and informative in nature and is not intended and should not be taken as legal advice of any kind. Any forms or sample language provided in this handout is only for convenience and should only be utilized after obtaining advice from an attorney. If you have any questions about anything contained in this handout or your particular situation, you should seek competent legal counsel.

There are a number of ways a person can plan for their pets, some of which are very formal while others are less formal. The options available for planning for pets includes:

- Making Requests and Obtaining Verbal Assurances
- Providing for Pets in a Durable Power of Attorney
- Providing for Pets in a Last Will and Testament
- Providing for Pets in a Trust

Making Request and Obtaining Verbal Assurances

The simplest and easiest way to plan for your pets in the event of your death or disability is simply to make informal requests of others and obtain their assurances that they will take care of your pet in the event of your death or disability. From a legal perspective, this is not binding or enforceable. Often, verbal requests and assurances, even with the best intentions, can fail. For some, verbal assurances may seem sufficient. Others will want to put in place a more formal plan for their pets.

Providing for Pets in a Durable Power of Attorney

A Durable Power of Attorney is a document that appoints someone else to act for you in the event of your disability. A Durable Power of Attorney can contain provisions regarding who will watch over and care for your pet in the event you become disabled. The person who you appoint is referred to as your attorney-in-fact. With a Durable Power of Attorney you can give specific instructions about the daily care, medical attention, physical control and even burial of your pet in the event a disability prevents you from making those decisions.

Sample general language that may be included in a Durable Power of Attorney for a dog or other pet follows:

“My attorney-in-fact shall have the power and authority to watch, care for and provide food and shelter for my dog “INSERT DOG’S NAME.” To that end my attorney in fact is authorized to use my assets to pay any ordinary and necessary expenses for the grooming, medical care.” (Recommendation is for \$10,000 per dog.)