

CARING FOR YOUR PETS AFTER DEATH

By Robert Prior



For millions of Americans, animals are a part of the family. Estimates are that 78 million dogs and 85.8 million cats are owned in the United States. Approximately 44% of all households in the U.S. have a dog and 35% have a cat. There is a good chance that if you are reading this, you have a furry friend at home.

Unfortunately, many people do not give any thought or planning to how their pets will be cared for if the owner becomes incapacitated or dies. Consequently, many beloved companions wind up in the care of a shelter or someone the owner would not have wanted.

The billionaire, Leona Helmsley, famously left \$12 million to care for her Maltese at her death, but such extravagance is not recommended. Rather, properly and sensibly providing for your pets after your incapacity or death can be accomplished through simple prior planning.

In 2010, Georgia (like most other states) initiated legislation providing for a concept known as a “pet trust.” A pet trust is a legally enforceable arrangement providing for the care and maintenance of one or more companion animals in the event of the pet owner’s disability or death. The pet owner creates the trust, which may take effect during the owner’s lifetime or at death, and appoints a trustee to hold cash or other property “in trust”

for the benefit of the pets. The trustee uses the trust assets to provide for the care of the pets during their lives. It is permissible to name one person as trustee to manage the money and another

person as the pet’s caregiver, to be responsible for the day-to-day care of the pet. In Georgia, the trust continues for the life of the pet or pets. Upon the death of the last

pet beneficiary, any remaining trust property is left as the pet owner designates in the trust agreement.

Because pet trusts are legally enforceable arrangements, pet owners can be assured that their directions regarding their companion animal will be carried out rather than leaving their care to happenstance. Since the owner knows the particular habits of their pet better than anyone else, they can describe the kind of care their pet should have and list the persons who would be willing to provide that care. A trust agreement can be very specific. For example, if your cat only likes a particular brand of food or your dog likes to be walked twice daily, this can be specified in the trust agreement. If your pet requires certain medications, this can be specified. If you want your pet to visit the veterinarian semi-annually and the groomer monthly, this can also be included. The trust can even provide instructions for the final disposition of your pets (for example, burial or cremation).

“I HAD RATHER HEAR
MY DOG BARK AT A CROW, THAN A MAN
SWEAR HE LOVES ME.”

~SHAKESPEARE, JULIUS CAESAR

Many well-intentioned pet lovers make the mistake of providing for their pet through their will. Since a will must be probated, this planning can lead to several months of delay with uncertainty regarding the animal's care during this time. The better practice is to create (and fund) the pet trust during the owner's life.

In establishing the trust, the owner must provide funds needed to adequately cover the expenses for the pet's care (generally, this amount cannot exceed what may reasonably be required given your pet's standard of living) and specify how the funds should be distributed to the caregiver. The owner must also determine the amount of funds needed to adequately cover the expenses of administering the pet trust.

Careful thought should be given to the selection of a trustee and caregiver. While the same person can serve in both roles, often a person who is good at managing money may not be the ideal pet lover. In any event, the owner should discuss the selection with the selected persons to be sure they are willing to accept the responsibilities of the trust.

Pet trusts can offer pet owners a great deal of flexibility and peace of mind. Contact an estate planning professional to determine if a pet trust is right for you.



Bob Prior is a partner in the Athens law firm of Prior, Daniel & Wiltshire, LLC. His practice is focused on estate planning and elder law. Mr. Prior is a former Marine infantry officer and JAG and has been in private practice for 20 years.

Estate Planning Elder Law

Robert T. Prior, Sr., J.D., LL.M.

Professionals Specializing In:

Estates
Trusts
Probate

Elder Law
Medicaid Planning
VA Planning

Tax Planning
Life Insurance Planning
IRA Planning



Prior, Daniel & Wiltshire, LLC

706.342.0606

bprior@pdwlawfirm.com