

Providing for Your Pet's Future Without You

As a responsible pet owner, you provide your pets with food and water, shelter, veterinary care, and love. To ensure this quality of care continues should something unexpected happen to you, it's critical to plan ahead.

Is a will the best way to provide for a pet?

Although a lawyer will help decide which document best suits your needs, be aware of some drawbacks to a will. For example, a will takes effect only upon death, and it will not be probated and formally recognized by a court until days or even weeks later. What's more, if legal disputes arise, the final settlement of property may be prolonged. Even determining the rightful new owner of pets can get delayed. It may take a long time for instructions regarding your pets' long-term care to be carried out. This doesn't necessarily mean that you should not include provisions in your will that provide for pets. It simply means that you should explore creating additional documents that compensate for a will's limitations.

How can setting up a trust help?

Unlike a will, a trust can provide for pets immediately. That's because you determine when your trust becomes effective. When a trust is created for pets, money is set aside to be used for the pets' care and trustees are specified to control the funds.

A trust created separately from the will carries certain benefits: It can be written to exclude certain assets from the probate process so that funds are more readily

available to care for a pet, and it can be structured to provide for a pet even during a lengthy disability.

An attorney will need to make sure that a trust for the benefit of one or more specific animals is valid and enforceable. Even if state law recognizes the validity of such trusts, keep in mind that tying up a substantial amount of money or property in a trust for the animals' benefit may prove to be controversial from a relative's or heir's point of view. Moreover, trusts are legal entities that are relatively expensive to administer and maintain — all of which underscores the need for careful planning.

How can a power of attorney help?

Powers of attorney, which authorize someone else to conduct some or all of your affairs for you while you are alive, have become a standard planning device. Such documents can be written to take effect upon your physical or mental incapacity and to continue in effect after you become incapacitated. They are simpler than trusts and do not create a legal entity that needs to be maintained by formal means. Provisions can be inserted in powers of attorney authorizing your attorney-in-fact — the person designated to handle your affairs — to take care of your pets, expend money to do so, and even to place your pets with permanent caregivers if appropriate.

Like any other legal device, however, powers of attorney are documents that by themselves cannot ensure that your pet is fed, walked, medicated, or otherwise cared for daily. Legal devices can only complement your personal efforts in

thinking ahead and finding temporary and permanent caregivers who can take over your pet's care immediately when the need arises.

What is a reasonable sum to leave?

The answer to this question can vary widely, depending on the age, health, estimated lifespan, and number of pets involved. The funds needed to care for a young horse will certainly be much greater than those needed for an aged parakeet.

It also depends on how much care you wish the animals to receive. If the animals get cancer, diabetes, hip dysplasia, or some other ailment, what kind of treatment do you want to provide? And do you want to provide it indefinitely or for a limited period of time? Also, you may want to look into cremation and burial prices.

Whereas leaving too much money in the trust can cause problems with heirs or potential heirs, leaving too little could compromise the care of the animal. The trust should stipulate the frequency and amounts of payments, as well as whether amounts should be adjusted for inflation. Finally, you may want to consider paying a fee to caretakers and/or trustees for their time and effort.



The information contained in this article was adapted from "Providing for Your Pet's Future Without You," an estate planning kit produced by The Humane Society of the United States. To order a free copy, contact The HSUS at (202)452-1100 or petsinwillsrp@hsus.org or visit www.hsus.org/petsinwills.