

» How to include four-legged family members in your estate planning. By Heidi Meinzer and Jennifer Lee

PROVISIONS FOR PETS

Just last year, forlorn family members brought Bonnie, a five-year-old Golden Retriever mix, to a local shelter. Bonnie's owner had just died, and the family wasn't able to keep her. Bonnie was very lucky—she was adopted by one of the shelter veterinarians the very same day she went up for adoption.



Not all dogs are as lucky as Bonnie. The Humane Society for the United States estimates that animal shelters across the country care for 6 to 8 million animals a year, and approximately 3 to 4 million are euthanized each year. Those numbers are down drastically from the 1970s, when 12 to 20 million animals were euthanized each year, but we still have a long way to go. One way to avoid this unfortunate scenario is to provide for your pets in your estate planning.

Beyond Leaving Money to Your Pet

Many people scoff at the idea of including pets in their estate plans, pointing to such stories as billionaire Leona Helmsley. When Helmsley—nicknamed the “Queen of Mean”—died in 2007, she left a \$12 million trust to care for her ill-tempered Maltese, Trouble. Of her \$4 billion estate, Helmsley left \$5 million in cash and \$10 million in trust to her brother, and \$5 million in cash and \$5 million in trust to two of her four grandchildren. Helmsley cut the other

two grandchildren out completely.

Not surprisingly, the family filed suit, and the court cut Trouble's trust from \$12 million to \$2 million. That \$2 million goes towards annual costs of \$60,000 for the caregiver's guardian fee, \$8,000 for grooming, \$1,200 for food, and \$100,000 for full-time security. Apparently, Trouble needed security after having received multiple death threats.

Planning for your pets is about much more than just leaving money to your pampered pooch. If you fall ill or are in an accident, everyone around you will be devastated and may not think about your pets. In that situation, your pets need immediate care, and your loved ones need guidance. The better you plan, the easier it will be for your relatives and friends to help.

Recent changes in estate law and the manner in which courts view pets has made planning for the future easier. The following are a few of the tools you can use to plan for the care of your pet. Because of differences in state law and the considerations unique to each pet owner

and pet, it is recommended that you consult an attorney to determine the best tool for your particular situation.

Your Will

Some pet owners make provisions for the care of their pet in their will. However, a will has several drawbacks—it can take a long time to probate or someone may contest it. Your wishes may not be put into effect until the conflict is resolved or a court may refuse to enforce your instructions. Additionally, a will is only effective upon your death.

Power of Attorney

Should you become incapacitated, a power of attorney with special provisions for your pet can be very useful. Those provisions should authorize your agent to care for your pet and spend your money for your pet's care. You can also give your agent the power to place the pet with a

Annual Cost of Care

The American Society for the Prevention of Cruelty to Animals (ASPCA) estimates annual costs for

- a small dog at **\$1,314**
- a medium dog at **\$1,580**
- a large dog at **\$1,843.**

For a detailed breakdown of pet care costs visit www.asPCA.org/adoption/pet-care-costs.aspx.



long-term caregiver if necessary. However, a power of attorney is only effective while you are alive.

Pet Trusts

Perhaps the best option is to have a power of attorney along with a pet trust. A pet trust is a legally enforceable method to arrange for the care and maintenance of your pet in the event you become incapacitated or die. Depending on the laws of the state in which a pet trust is established, a pet trust can continue for the life of your pet or 21 years, or whichever occurs first.

One of the most important decisions is to designate the trustee of your pet trust. The trustee will hold, manage, and administer the funds according to the terms of the trust. You must also decide who will be the pet's caregiver on a day-to-day basis. It is crucial to name someone who is willing and able to take on this duty. You should name alternate trustees and pet caregivers in the event the original trustee or caregiver becomes unable to serve in his or her respective functions for whatever reason.

In a pet trust, you can be as specific as you wish about the care of your pet. Consider the standard of living you want your pet to have and the type of care that your pet is to receive. You can specify your preferred brand of pet food, veterinarians, walking/exercising instructions, training, behavior concerns, and other special instructions. For instance, when owner Ken Kemper of Hagerstown, MD, died several years ago, Kemper left \$400,000 and his house to his three rescues—a Beagle and two Lab mixes named Buckshot, Katie, and Obu-Jet. He also left instructions that the dogs were to have a special weekly dinner. The dogs' caretaker continues Kemper's tradition of a Friday night spaghetti dinner, complete with meatballs and garlic bread.

How Much is Enough?

Determining what sums are reasonable for your pet's care is important so that you can fund the trust appropriately. Expenses to be considered include food, housing, medical care, and grooming.

As with Leona Helmsley, courts will not hesitate to scale back a pet trust that is out of line with the amount someone has left for his or her loved ones. The amount you should leave in a trust for the care of your pets must factor in not only the size of your overall estate, but also the needs and age of your pets.

The American Society for the Prevention of Cruelty to Animals (ASPCA) has a detailed breakdown of pet care costs at www.asPCA.org/

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adoption/pet-care-costs.aspx. The ASPCA estimates annual costs for a small dog at \$1,314, for a medium dog at \$1,580, and for a large dog at \$1,843.

Paul Sullivan, a writer with the *New York Times*, recently wrote an article entitled “Animal Lovers, Beware of Ownership Costs,” questioning the ASPCA’s numbers as being too low. Sullivan includes many stories about pet costs that far exceed the ASPCA’s estimates. One story was about Moose, a Labrador Retriever who needed to have a sock surgically removed from his stomach—to the tune of \$6,000 in vet bills. As Sullivan mentions, many of us pay far more than the ASPCA’s estimates in just dog walking and doggie daycare costs.

When thinking about how much to leave for your dog, as well as a possible option for a back-up caregiver, consider the various veterinary schools with programs designed for long-term care of pets. Texas A&M’s College of Veterinary Medicine and Biomedical Sciences has a privately funded program called The Stevenson Companion Animal Life-Care Center. There is an enrollment fee of \$1,000 and a minimum endowment requirement based on the age of the owner at the time of enrollment (currently between \$10,000 and \$50,000 if the endowment is paid at the time of enrollment, or between \$50,000 and \$100,000 if the endowment is made by bequest). Other veterinary schools with similar programs include University of California-Davis, Oklahoma State University, the University of Minnesota, Kansas State University and Purdue University. These programs generally seek contributions or endowments in the range of \$25,000 to \$30,000 for one dog.

No Time Like the Present

Bonnie was very fortunate that she found someone right away to care for her. But not all dogs in her situation are as lucky. With careful estate planning, you can give your loved ones the guidance they need to provide for your pets in the unfortunate event of your death or incapacitation. There is no time like the present to make a New Year’s resolution to get your estate planning in order—for you and your pets! **ND**



Heidi Meinzer is an attorney and shareholder with Bean, Kinney & Korman, P.C., where she practices primarily in the areas of animal law, civil litigation, and criminal defense. Heidi currently shares the company of Sophie, her rescued German Shepherd mix, and Boomer, an adorable black Lab.

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