

Providing for your pet's future without you

Introduction

Because pets usually have shorter life spans than their human caregivers, you may have planned for your animal friend's passing. But what if *you* are the one who becomes ill or incapacitated or who dies first?

As a responsible pet owner, you provide your pet with food and water, shelter, veterinary care and love. To ensure that your beloved pet will continue to receive this care should something unexpected happen to you, it's critical to plan ahead. This information sheet helps you do just that.

What can I do now to prepare for the unexpected?

In the confusion that accompanies a person's unexpected illness, accident or death, pets may be overlooked. In some cases, pets are discovered in the person's home days after the tragedy. To prevent this from happening to your pet, take these simple precautions:

- Find at least two responsible friends or relatives who agree to serve as temporary emergency caregivers in the event that something unexpected happens to you. Provide them with keys to your home; feeding and care instructions; the name of your veterinarian; and information about the permanent care provisions you have made for your pet.
- Make sure your neighbors, friends and relatives know how many pets you have and the names and contact numbers of the individuals who have agreed to serve as emergency caregivers. Emergency caregivers should also know how to contact each other.
- Carry a wallet "alert card" that lists the names and phone numbers of your emergency pet caregivers.
- Post removable "in case of emergency" notices on your doors or windows specifying how many and what types of pets you have. These notices will alert emergency response personnel during a fire or other home emergency. Don't use stickers; they're difficult to remove and are often left behind by former residents, so firefighters may assume that the sticker is outdated or even risk their lives trying to find a pet no longer in the house.
- Affix to the inside of your front and back doors a removable notice listing emergency contact names and phone numbers.

Because pets need care daily and will need immediate attention should you die or become incapacitated, the importance of making these formal arrangements for temporary caregiving cannot be overemphasized.

How can I ensure long-term or permanent care for my pet if I become seriously ill or die?

The best way to make sure your wishes are fulfilled is by also making formal arrangements that specifically cover the care of your pet. It's not enough that long ago your friend verbally promised to take in your

animal or even that you've decided to leave money to your friend for that purpose. Work with an attorney to draw up a special will, trust or other document to provide for the care and ownership of your pet as well as the money necessary to care for her.

How do I choose a permanent caregiver?

First, decide whether you want all of your pets to go to one person, or whether different pets should go to different people. If possible, keep pets who have bonded with one another together. When selecting caregivers, consider partners, adult children, parents, siblings and friends who have met your pet and have successfully cared for pets themselves. Also name alternate caregivers in case your first choice becomes unable or unwilling to take your pet. Be sure to discuss your expectations with potential caregivers so they understand the large responsibility of caring for your pet. Remember, the new owner will have full discretion over the animal's care—including veterinary treatment and euthanasia—so make sure you choose a person you trust and who will do what is in the best interests of your pet.

Stay in touch with the designated caregivers and alternates. Over time, people's circumstances and priorities change, and you want to make sure that the arrangements you have made continue to hold from the designated caregivers' vantage points.

If all else fails, you can include language in your will that directs your executor or personal representative to place the animal with another individual or family (that is, in a non-institutionalized setting). Finding a satisfactory new home can take several weeks of searching, so again, it is important to line up temporary care. You also have to know and trust your executor and provide useful, but not unrealistically confining, instructions in your will.

You should also authorize your executor to expend funds from your estate for the temporary care of your pet as well as for the costs of looking for a new home and transporting the animal to it. The will should also grant broad discretion to your executor in making decisions about the animal and in expending estate funds on the animal's behalf. Sample language for this approach is:

{Article Number} A. As a matter of high priority and importance, I direct my Personal Representative to place any and all animals I may own at the time of my death with another individual or family (that is, in a private, non-institutionalized setting) where such animals will be cared for in a manner that any responsible, devoted pet owner would afford to his or her pets. Prior to initiating such efforts to place my animals, I direct my Personal Representative to consult _____, D.V.M. (currently at the

_____ Hospital), or, in the event of Dr. _____’s unavailability, a veterinarian chosen by my Personal Representative, to ensure that each animal is in generally good health and is not suffering physically. In addition, I direct my Personal Representative to provide any needed, reasonable veterinary care that my animal(s) may need at that time to restore the animal(s) to generally good health and to alleviate suffering, if possible. Any animal(s) not in generally good health or who is so suffering—and whose care is beyond the capabilities of veterinary medicine, reasonably employed, to restore to generally good health or to alleviate suffering—shall be euthanized, cremated and the ashes disposed of at the discretion of my Personal Representative. Any expenses incurred for the care (including the costs of veterinary services), placement or transportation of my animals, or to otherwise effect the purposes of this Article _____ up to the time of placement, shall be charged against the principal of my residuary estate. Decisions my Personal Representative makes under this Article _____—for example, with respect to the veterinary care to be afforded to my animal(s) and the costs of such care—shall be final. My intention is that my Personal Representative have the broadest possible discretion to carry out the purposes of this paragraph.

Can I entrust the care of my pet to an organization?

Most humane organizations do not have the space or funds to care for your pet indefinitely and cannot guarantee that someone will adopt your animal, although some may be able to board and care for your pet temporarily until he can be transferred to his designated caregiver.

There are, however, a few organizations that specialize in long-term care of pets of deceased owners. For a fee or donation, these “pet retirement homes” or “sanctuaries” may agree to find your pet a new home or care for your pet until she dies. Be aware, however, that pets are *companion* animals who need lots of care and affection; they may suffer from long-term confinement in such facilities. Your pet will not want to be institutionalized any more than you would want to be.

Before making any formal arrangements, visit the organization to see how animals are cared for; where they are confined; who looks after them; when they are socialized and exercised; and what policies and procedures exist regarding care at the facility and placement with a new family. Also consider what might happen to your pet if the organization were to suffer funding or staff shortages. If you decide to entrust the care of your pet to an organization, choose a well-established organization that has a good record of finding responsible homes quickly.

Can I request that my pet be euthanized after my death?

Being concerned about what will happen to your pet after your death is normal. But some people take this concern to extremes, requesting that their pet be euthanized out of fear that no one else will care for the animal appropriately. When an owner puts this request in his will, that provision is often ruled invalid by the legal system when the animal is young or in good health and when other humane alternatives are available.

There are some cases when euthanasia may be appropriate. If a pet is very old or requires extensive treatment for a health condition, for example, it may be unfair to both the pet and your designated caregiver to insist on indefinite care. That's why it's important to choose a responsible caregiver and thoroughly discuss the animal's condition and needs so that the caregiver can make the best decision after you're gone.

Do I need legal assistance?

Before making formal arrangements to provide for the long-term care of your pet, seek help from professionals who can guide you in preparing legal documents that can protect your interests and those of your pet. However, you must keep in mind the critical importance of making advance personal arrangements to ensure that your pet is cared for *immediately* if you die or become incapacitated. The formalities of a will or trust may not take over for some time.

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

Although your lawyer will help you decide what type of document best suits your needs, you should be aware of some drawbacks to wills. For example, a will takes effect only upon your death, and it will not be probated and formally recognized by a court for days or even weeks later. What's more, if legal disputes arise, the final settlement of your property may be prolonged. Even determining the rightful new owner of your pet can get delayed. In other words, it may take a long time before your instructions regarding your pet's long-term care can be carried out.

This doesn't necessarily mean that you should not include a provision in your will that provides for your pet. It just means that you should explore creating additional documents that compensate for the will's limitations.

How can setting up a trust help?

Unlike a will, a trust can provide for your pet immediately and can apply not only if you die, but also if you become ill or incapacitated. That's because you determine when your trust becomes effective. When you create a trust for your pet, you set aside money to be used for his care and you specify a trustee 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 your pet.
- It can be structured to provide for your pet even during a lengthy disability.

Which is right for me—a will or a trust?

There are many types of wills and trusts; determining which is best for you and your pet depends on your situation and needs. It's important to seek the advice of an attorney who both understands your desire to provide for your pet and can help you create a will and/or trust that best provides for him.

You and your attorney also need to make sure that a trust for the benefit of one or more specific animals is valid and enforceable in your state. Even if your 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 an animal's benefit may prove to be controversial from the point of view of a relative or other heir. Moreover, trusts are legal entities that are relatively expensive to administer and maintain, all of which underscores the need for careful planning and legal advice.

After you and your lawyer create a will, trust or both, leave copies with the person you've chosen to be executor of your estate as well as with the pet's designated caregiver so that he or she can look after your pet as soon as it becomes necessary to do so. (The executor and caregiver may or may not be the same person.) Make sure the caregiver also has copies of your pet's veterinary records and information about her behavior traits and dietary preferences.

Consider also a power of attorney

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. It is critical to coordinate—with more formal legal planning—your own efforts in finding substitute caregivers.

For more information

If you or your legal advisor would like more information about this topic, please contact Steve Maughan, Vice President of Planned Gifts and Estates, at 1-800-808-7858 or smaughan@humanesociety.org.

You can help your fellow species even after you're gone with a bequest supporting HSUS animal protection programs. Naming the HSUS in your will or trust demonstrates your lasting commitment to animal welfare. Please keep in mind that we're just as happy to be last in line in your will; we hope you will consider the HSUS for at least the residue of your estate. For additional information, please contact Steve Maughan at 1-800-808-7858 or smaughan@humanesociety.org.

NOTE: The foregoing is intended to provide general information and to stimulate your thinking about providing for your pet in the event of your incapacity or death. It is not intended to provide legal advice and is definitely not a substitute for consulting a local attorney of your choosing who is familiar both with the laws of your state and with your personal circumstances and needs and those of your pets.

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