

# Backup Plan

by James Hettinger

Volunteering at an animal shelter in California in the 1980s, Amy Shever saw people who, after the death of their mother or father, would give their parents' pets to the shelter.

Many of the formerly beloved companions "would just curl up in a ball and wouldn't eat," Shever recalls. "When you have a dog that's been sitting on someone's lap or sleeping in someone's bed ... the experience at the shelter can be incredibly overwhelming for them, and many of them become despondent."

When the terrorist attacks of Sept. 11, 2001, left an estimated 800 pets orphaned in New York City, Shever started thinking about it again. As she boarded a plane for a vacation, she realized there's no guarantee that she'll outlive her own pets. What would happen to them if she didn't?

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She found a few resources online, but she also learned that only a small percentage of Americans ever create a trust or a will, and those who do rarely update them.

Shever founded the nonprofit 2nd Chance 4 Pets in 2003 and has been talking to people about the importance of ensuring their pets' future ever since. Speaking at conferences around the country, she brings a banner of a sad-eyed dog posing a question: "If anything happened to you, what would happen to me?"

It sparks a variety of responses, Shever says. People tend to say either, "Oh! I've never thought about that," or "You know, I've thought about that, but I really am not sure what to do."

That lack of knowledge sends an estimated 100,000 to 500,000 pets to shelters each year after their owners die or become incapacitated. In communities with high populations of senior citizens, says Shever, pets outliving their owners can make up half a shelter's intakes.

They include animals like William, a Siamese cat taken in by BrightHaven, a sanctuary for older pets in Santa Rosa, Calif. When William's owner died, the family took him to a shelter to be euthanized. BrightHaven stepped in after receiving a call

from a shelter volunteer, but many pets whose owners die without a plan in place aren't as lucky.

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Why do otherwise doting pet parents fail to make such plans? Most people assume they'll outlive their pets, says Barry Seltzer, a Toronto-based estate lawyer and co-author of *Fat Cats & Lucky Dogs: How to Leave (Some of) Your Estate to Your Pet*. And death and disability are topics that many people refuse to face. The situation prompted Seltzer to pen a modified version of the Bible's Proverbs 29:18:

*Where there is no vision, pets perish.*

*Where there's procrastination, pets perish.*

*And where there is no plan in place, pets perish.*

Fortunately, there are options for ensuring your pet's future isn't left up to blind luck. Gerry Beyer, a law professor and co-author of *Fat Cats & Lucky Dogs*, recalls that people made good-natured fun of his first article on the subject, published in a law review a dozen years ago. "Since then, the interest in the topic has grown exponentially," he says, and most states now have pet trust laws in place. No one can know the future. Even the youngest or healthiest of us are vulnerable to accidents. A little planning can provide some peace of mind—knowing that whatever happens to you, your pets will be just fine.

## **Estate Planning for Pets 101**

### **Find Your Replacement**

Identifying a committed caregiver is the most important step in planning for your pet's future, says Shever. Talk with everyone from your veterinarian to family members and pet-sitters about becoming your pet's designated caregiver. "A lot of people just assume, 'Oh, my son's going to take the dog, or my daughter's going to take the cat,' and then what happens is they don't want to take the pets," she says. To avoid misunderstandings, Shever recommends getting commitments in writing.

### **Appoint an Understudy**

You should also identify alternate caregivers, says Beyer, since a designated caregiver might end up traveling frequently or living somewhere that doesn't allow pets. If you can't identify a trustworthy caretaker and at least one good alternate, 2nd Chance 4 Pets recommends choosing a panel of friends or family members in charge of selecting a long-term caregiver and arranging temporary care for your animal until a permanent situation is worked out.

## **Establish Expectations**

Create an information packet that details your pet's medical history and daily care needs, Shever says, because "obviously, a cat or a dog can't say, 'Oh, well, here's the food I eat, here's how much I eat, here's when I need my treats, here's when I need my walk.'" Make sure the information is easily accessible and specifies the standard of living you want for your pet, including medical care and end-of-life decisions.

## **Pets on Pensions**

Set aside a fund to cover your pet's future expenses. For example, you can designate the trustee of your pet trust as the beneficiary of a life insurance policy or a bank account that's payable upon your death. This ensures the trustee has immediate cash to devote to your pet's care. Don't transfer outrageous sums of money—they'll be contested, Beyer advises.

## **A Formal Affair**

While informal arrangements can work, "you are betting that ... your pet's caregiver will remain healthy, dependable, responsible, committed, and financially and emotionally secure," Beyer and Seltzer write in *Fat Cats & Lucky Dogs*. Steve Maughan, HSUS senior director of planned gifts and estates, recommends a well-crafted legal arrangement: "It's far easier to deal with a simple will or trust than some vague statements or expectations," Maughan says. "And you can rest assured that your intentions will be carried out."

## **Where There's a Will**

An estimated 27 percent of U.S. pet owners who have wills include provisions for their pets, but according to *Fat Cats & Lucky Dogs*, they're often ill-conceived or inadequate. They simply leave Max the dog to Uncle Harry, for example, without covering expenses or backup caregivers. It's preferable to leave both your pet and money to a caregiver, with the clear understanding that the money should go toward your animal's care.

## **In Pets We Trust**

While trusts can be relatively expensive to administer and maintain, they add a layer of oversight: The trustee pays the money to your appointed caregiver and may regularly inspect your pet's health and living conditions. Having the person with the money be someone different from the person with custody of your animal creates a system of checks and balances, Beyer says.

## **Legal Hoops**

Many types of wills and trusts exist, so it's crucial to prepare carefully and seek legal advice. Before talking with a lawyer, you should have a plan in mind, Seltzer says. It's essentially "planning the same as you might if you were dealing with a young child."

Knowing that pets usually have shorter lifespans than humans, 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 if something unexpected were to happen to you, it's critical to plan ahead.

**Learn what steps you can take to plan and provide for your pet's future without you with this printable PDF: Providing For Your Pet's Future Without You »**

**Also available in Spanish »**

**For more information**

If you or your legal advisor would like more information on any of these matters, please contact The HSUS Department of Philanthropy at 800-808-7858 or [gifts@humanesociety.org](mailto:gifts@humanesociety.org).

### **Learn More**

Learn more about creating a legacy of compassion.

*NOTE: This information is intended to provide a general overview 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.*