

Estate Planning and Your Pets – Real Life “Aristocats”

by Bryan Cave LLP

Recently, a man who died in Tennessee left his two cats a life interest in his estate. Upon the death of the surviving cat, the remaining estate will pass to the man's family. Comments on the internet have focused on the cats' safety, which reminds me of the old Disney movie, *The Aristocats*, where a wealthy old lady leaves her estate to her cats for their lives and the remainder to her butler. After the will is drawn up, the butler tries to dispose of the cats, so he will inherit the estate immediately upon the lady's death. When her cats expose the butler's plan, with the aid of several other animals, the lady writes him out of her will and adds the animals that helped save her cats into her will. You can read more about the Tennessee Aristocats [here](#).

Leaving one's entire estate to the pets is somewhat extreme. However, most people want their pets cared for after their death. For many reasons, it is important to make such arrangements in your estate planning documents for your current pets and any future pets.

Most people consider their pets members of the family, but under the law, pets are property. Pets are, of course, a special kind of property that require you to make decisions regarding their care and the funding for such care. Thus, you must decide who is best suited and qualified to care for your pets, what amount of money will be needed to care for your pets, and how you want to leave your pets and any money for their care, outright or in trust.

For the who, the person selected as the caregiver should have a desire to care for your pets, and have the physical, and potentially the financial, ability to care for you pets. If possible, the person should have a longer life expectancy than you, and you should have a backup in case your first choice predeceases you or cannot take the pets at the time of your death.

For the what, you should determine the annual cost for your pets and their likely life expectancy. In calculating the annual cost, remember to include the cost of potential medical treatment, pet sitting, day care or boarding when needed, grooming and any special items or services you wish for your pets. Then, you can determine how much of this amount you wish to leave for their care or the care of any future pets.

For how, you have to reach a balance between the control you want to have in how your pets are cared for after your death and the amount of time and cost you want to invest in planning for your pets.

The simplest plan is to leave your pets and the cash amount to the new caregiver. However, this plan does not provide any supervision to make sure the caregiver is using the funds to care for your pets instead of his or her own interest.

For more control, you can create either a traditional or a statutory pet trust. A trust is simply an agreement where you, as the donor, give one person, the trustee, the power to hold the property for the benefit of another person, the beneficiary. The trustee has a legal obligation to manage and administer the trust property according to the terms of the trust. Under traditional trust law, a pet, as property, could not be a beneficiary, so a traditional pet trust names the new caregiver as the beneficiary and restricts the use of the funds to the pet's care. Over the last fifteen years, most states have adopted a form of the statutory pet trust that allows the pet to be the beneficiary.

For either type of trust, the named trustee will use the funds for the pet's care, and will have a duty to ensure the caregiver is taking proper care of your pet. Upon the death of your pet, the remaining assets can be distributed as you choose. People typically leave the remaining assets to the caregiver or to an animal-focused charity.

Further, as an ultimate backup plan, you also should select an animal shelter that can accept your pets in the event none of your named caregivers are available to take your pets. You will want to investigate the available shelters to confirm the shelter best suited to accept your pets and help them find a new home. Once you choose a shelter, you should contact the shelter to discuss the procedure and any recommended donation to make to the shelter upon accepting your pets.

Finally, you should make sure someone can care for your pet during your lifetime in the event you become incapacitated or are unable to care for yourself. This can be done by creating a pet trust during your lifetime that can start caring for your pets the moment you no longer can care for them yourself.

If you do not want to create a trust, you should make sure expenditures for pets are allowed in your durable power of attorney. A durable power of attorney is a document typically prepared with one's estate planning documents, and names an agent to handle your finances if you become incapacitated. Specifically including a provision that authorizes expenditures for pets will help ensure your agent will be able to provide for your pets.

You do not have to make new aristocats, but with a little planning, you can ensure your winged and four legged family members will be cared for in the event of your incapacity and after your death.

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