

Estate planning to care for your pets

By Caty Hill

When Worcester, Mass. resident Tracy Craig got divorced about 10 years ago, she realized that if something happened to her, she wasn't sure what would become of her beloved golden retrievers Kali and Chelsea.

"They're members of the family," she said. "How could I make sure they were cared for the way I wanted them to be?"

Being an estate attorney, Craig decided to write a trust that provided for her dogs' care if something happened to her, dictating who they would live with and how that person should treat them, including things like buying certain toys and treats and mandatory annual vet visits. "It gave me a lot of peace of mind," she said.

These days, that peace of mind isn't just for the Leona Helmsleys of the world. (Helmsley, a billionaire real-estate and hotel tycoon who died in 2007, left \$12 million to her Maltese named Trouble. Trouble died in 2011 and the remainder of the bequest went to charity.)

You don't have to be a millionaire, or even an estate-planning attorney (or even use one) to do it: There are myriad ways, from pet trusts to pet protection agreements, that can keep your pet happy and fed even if you're not around to do it. Forty-six states (all except Kentucky, Louisiana, Minnesota and Mississippi) have enacted pet trust laws—laws that enable a pet to be the beneficiary of the funds from a trust—within the past decade, seven of these within the past few years, according to the ASPCA.

In September, the ASPCA announced a partnership with LegalZoom.com to promote its pet protection agreements. These documents are less expensive, though also less protective, than trusts and dictate how your animals will be cared for if you are not able to care for them.

Some shelters and veterinary schools now offer continuing pet care programs, where you pay an enrollment fee or give an annual donation to the organization, and they promise to care for your pets upon your death.

Estate planning attorneys say they're seeing an increasing number of clients asking about the issue as well. Bay Area estate planning attorney Marina Modlin, founder of Modlin Legal, says she sees many clients with pets and no kids asking about what to do. Demand for pet trusts and related documents was so great at estate planning attorney Rachel Hirschfeld's office that she now solely does pet trusts, guardianships and other animal legal issues. "At first it was just rich people coming to me," she explains. But now, she says, her business has become more mainstream.

With all the options now out there to protect your pets, how do you know which one to choose? Here's a guide of some of the options, and who they work for:

Create a pet trust

With a pet trust, you pick a trustee (this person will manage the money you're funding the trust with) and a caregiver (this person will care for your pet); the trustee disperses funds and/or property to the caregiver who will then use them to care for the pet in the manner you've laid out in the trust. Many people wonder why they don't just leave money and instructions for pet caregiving in their will, rather than make a separate trust. "A will is a death warrant for your pet," says Hirschfeld. That's because it can take a long time to read and process a will and meanwhile your animals' lives may be at risk if no one steps up to take them, she says. "Your pet might end up in a shelter, or worse, euthanized."

Hirschfeld recommends putting specifics into the trust like details on the type of care your animal should receive (what does he eat, how often does he need to be walked, how often should he be taken to the vet and who is his vet, etc.) and an alternative pet guardian, should something happen to your primary pet guardian. Consult an estate planning attorney when creating a pet trust, as state laws on pet trusts differ.

Pet trusts are typically the most expensive (you not only must fund the trust, you must also pay lawyers fees that can easily top \$1,000) option for ensuring that your pets are cared for if you die or are incapacitated. But they're also the option that best ensures that your pets will be taken care of as you'd like them to be.

Because trusts are more expensive, both to execute and to maintain, this option works best for people who can leave tens of thousands of dollars or more to their pet, says Modlin.

Write out an agreement

If you don't have that kind of money to cough up for your pet, identify one or more caregivers and write out an agreement that states that the person will care for your pet upon your death or inability to care for your pet yourself. The biggest advantage of this, over a pet trust, is its relative affordability (you don't have to pay an attorney to do this).

You can use a standard form—like LegalZoom.com's Pet Protection Agreement, which costs between \$39 and \$59—or you can draft the letter yourself, get it signed by both you and the caregiver, and get it notarized. Make sure that your vet, the caregiver and your close family members have a copy of this agreement, so they will know who to give the animal to if something happens to you.

It's also a good idea to create a list of details about your pet—what kinds of medications does he take? who is his vet and how often does he go? what kind of food does he like?—that you give to the caregiver once the agreement is signed. This way, both the person and the pet will have an easier time adapting to the new situation.

Who this works for: Almost anyone who can identify someone trustworthy to care for their pet. But it's important to remember that this doesn't provide as much protection for your pets as a trust would, Modlin said. And if you want to leave a significant sum of money for your pet, you're better off going with a trust.

Consider a continuing pet care program

Some vet schools and animal shelters offer programs to care for your pet in the event that you can't. For example, the North Shore Animal League in Port Washington, N.Y. has a program that guarantees food, shelter and state-of-the-art medical care for your pets until they can be adopted by another family. You pay a one-time fee of \$10,000 for your first pet and \$5,000 for each additional pet to join the program. Fees vary, depending on the organization offering the services.

Who this works for: Someone who doesn't have a caregiver they trust or one who they know can afford to care for their animals. This option is troubling for some people because it doesn't give them the right to choose the home where the pet will ultimately go. And these kinds of arrangements can be expensive.

Talk it out

Some people know that their kids or a family member will take the pet because they've talked through the issue with them. While simply talking about the issue doesn't offer you much in the way of legal protection, it's still better than doing nothing. If you're going to go this route, at least make sure that you also talk about your pet's needs to the future caregiver.

It's important to remember that there is no guarantee that the caregiver you talk to about this will, in fact, take on the responsibility. So, for a few extra dollars, it's probably a good idea to put the relationship in writing, experts say.