
Providing for Pets in Your Estate Planning

We cherish our pets. Pet owners sleep with their pets, bring them to the office, display them on holiday cards, and adorn their computer screen with pet photographs. Given this love of our pets, it is reasonable to ask “What will happen to our pets when we are gone?”

Effective October 1, 2009, Connecticut has an answer to that question. The state officially embraced pet trusts. A trust is an arrangement between the pet owner (“the settlor”) and the person who will manage the funds for the care of the pet (“the Trustee”). Public Act No. 09 - 169 allows creation of a trust to care for animals alive at the pet owner’s death. A pet owner’s Will or revocable trust can include a pet trust. The trust must designate a trust protector with a duty to act on behalf of the animal benefitting from the trust. The trust protector usually has custody and control of the pet. The Trustee of the pet trust must annually render an account of the trust funds to the trust protector. A pet trust terminates upon the death of the last surviving animal.

The trust protector may file a petition in the Probate Court or Superior Court to enforce the provisions of the trust, remove the Trustee, or require the Trustee to render an account. The court may award costs and attorneys fees to the trust protector from the trust property if the court finds that filing the petition was necessary to fulfill the trust protector’s duties. If the Trustee has used the trust property for personal use, the trust protector may also seek the assistance of the Attorney General’s office.

The Trustee can only use trust property for the care of the pet, including trust expenses and trustee fees. If the Trustee or the trust protector believes the value of the trust property exceeds the amount required to care for the animals benefitting from the trust, the Trustee or trust protector can petition the Superior Court or Probate Court to make such a finding. Trust property not required for such care, including property remaining upon termination of the trust, passes in the following order: (1) as directed by the trust agreement, (2) to the remainder beneficiaries under the trust, (3) to the settlor if then living, (4) to the residuary beneficiaries under the settlor’s Will, or (5) to the settlor’s heirs under the laws of intestacy.

A lot of thinking goes into creating a pet trust, including calculating the proper amount with which to fund the trust, providing instruction on the care of the pet, deciding who to name as remainder beneficiary of the trust, establishing a means of identifying the pet to prevent fraud, and clarifying the disposition of the pet’s body upon death. If you or someone in your family wants to create a pet trust, give us a call.

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