

SOUTH CAROLINA PET PLANNING

– HOW YOU CAN PROTECT YOUR PET IN YOUR ESTATE PLAN

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KUHN & KUHN LAW FIRM

Wills * Trusts * Probate * Divorce * Child Custody



If you are an animal lover you likely include at least one pet as part of your family. You likely go out of your way to ensure that your family pet eats well, is seen by the veterinarian on a regular basis, and generally feels like part of the family. One thing you may have overlooked, however, is including your family pet in your estate plan. Don't feel bad, you are not alone. Most people don't think to include Fido or Fluffy in their estate plan – but they should.

Absent a plan for your beloved family pet, he or she could end up on the streets – or worse -- should something happen to you. The good news is that it is not too late to include your family pet in your estate plan and it can be done relatively easily with help from your estate planning attorney.

PET OWNERSHIP IN THE UNITED STATES

The United States is somewhat unique in the relationship we have with animals. In spite of, or because of, the fact that much of America was once farmland or ranchland where animals were raised to be slaughtered, we have developed a love affair for domestic animals in the U.S. that is unique to the U.S. According to the American Humane Society, pet ownership in the U.S. has almost tripled in the past four decades.

Today, we own about 180 million dogs and cats in America. Almost half of all American households have at least one dog or cat. Dogs and cats, however, are not the only pets you are likely to find in the average American household.

Americans also own 16 million birds and 11 million reptiles along with another 18 million small pets, such as hamsters, rabbits, and guinea pigs. Furthermore, American homes also have 140 million freshwater fish and 10 million salt water fish. Clearly, Americans love their pets.



WHAT HAPPENS TO YOUR PET IF SOMETHING HAPPENS TO YOU?

- If you treat your pet, regardless of what kind of animal you own, as part of the family, you undoubtedly want to protect your pet from harm. What you may not have considered, however, is that your failure to plan ahead could subject your beloved pet to the worst possible situation for an animal – abandonment.
- Every year in the United States, over 500,000 dogs and cats end up in a shelter or on the street because of the death or incapacity of their humane owner. How can this happen? The sad truth is that pets are often overlooked when tragedy strikes. Family members may not even think about your pet until days after your death, for example. Even if they do remember, your pet could still wind up in a shelter if no one is willing or able to take your pet on a permanent basis.
- Finally, the legal status of your pet could be a hurdle. Although you may not think of your pet as your property, the law does. As such, your pet is actually part of your estate when you die, meaning that no one can take legal ownership of him/her until probate is complete –unless you have planned ahead.



SOLUTIONS FOR YOU AND YOUR PET

So now that the problem is clear, what are the possible solutions? Fortunately there are several ways that you can plan for your pet's continued care should something happen to you, including:

- **Verbal Agreements** – sitting down and discussing your pet's future, and your wishes in the event something happens to you, with a loved one is certainly better than doing nothing; however, there are several reasons why this option fall short of fully protecting your pet.
 - **Not legally binding** – just telling someone your wishes does not create a legally binding contract or agreement. The individual is under no obligation to honor your wishes when the time comes. Moreover, your intended caregiver does not even have any legal claim to your pet that would allow him/her to take the animal when the time comes.
 - **No contingency plan** – if someone happens to your designated caregiver there is no contingency plan or “back-up” caregiver.
 - **No funding source** – there is no way for you to provide funds for the continued care of your pet.
- **Written Instructions** -- you could include your wishes for your pet in a “Letter of Instructions” which is simply a letter you create yourself and leave along with your



other estate planning documents. Many of the same problems exist though as with a verbal agreement – a Letter of Instruction is not legally binding nor does it provide a legal transfer of ownership and it does not provide a funding source; however, you could include a contingency plan.

- **Gifting in your Last Will and Testament** – gifting your pet using your Last

Will and Testament does resolve the legal transfer of ownership problem by “gifting” your pet to the intended caregiver. It can also solve, to some extent, the funding issue by gifting funds directly to the caregiver. Problems



remain, however, with this option, including:

- **No control over funds** – assets gifted in a Will, once gifted, can be used anyway the beneficiary wishes. In other words, you have no guarantee that the money you gift to the pet’s caregiver will actually be spent on your pet.
- **Doesn’t work for incapacity** – terms in a Will are only relevant in the event of your death. If you become incapacitated, however, your pet’s future remains uncertain.
- **Pet Trust** – a pet trust can solve all of the problems that the other options cannot. Pet trusts are not only for the rich and famous. In fact, they are

increasingly common in the average estate plan. A pet trust allows you to accomplish all of your pet planning goals, including:



- **Designating a caregiver** – you can decide who will care for your pet and that decision will be legally binding.
- **Creating a contingency plan** – you can appoint a successor caregiver as well as provide a process for choosing a new one should the need arise.
- **Providing funding** – assets owned by the trust can be used to care for your pet until his/her death.
- **Maintaining control over funding** – the Trustee of the trust will control the trust assets so you can rest assured the money will be spent according to your wishes.

- **Maintaining control over your pet's care** – likewise, you can create terms that decide things such as what vet your pet will treat with and just about anything else that matters to you regarding your pet's care. Your Trustee will enforce those terms.
- **Avoid probate** – trust assets are not part of the probate process. Therefore, care of your pet can shift easily to your designated caregiver when the time comes.

If you wish to discuss incorporating a pet trust into your estate plan, consult with your South Carolina estate planning attorney as soon as possible to ensure that your pet is well cared for in the event that you are unable to provide that care yourself some day.

Humane Society of the United States, [Pets by the Numbers](#)

ASPCA, [Pet Care](#)

American Bar Association, [Estate Planning Issues Involving Pets](#)

AVMA, [Pet Trusts: Caring for a Pet That Outlives Its Owner](#)

About Kuhn & Kuhn Law Firm



Our firm is dedicated to providing you with quality estate planning and family law resources, so you can become familiar with all of the existing options. When you visit or call our office, we want you to feel comfortable discussing such an important issue concerning both you and your family. We want to arm you with the information you need to make an informed decision about your family's future.

If you have a well-drafted estate plan in place, you'll ensure that your estate passes to whom you want, when you want, and is carried out in the manner you've chosen. You can rest assured that your family will not have to endure the public process and costly matter of probate. The government will not be able to take what you've spent a lifetime building. But you need to be aware of the many options that exist in estate planning—and you must choose your attorney wisely.

If you or someone you love is contemplating a separation or divorce, you can count on our help in reaching a cost-effective and fair resolution. Our team of legal professionals is experienced in all aspects of South Carolina divorce law. Whether your divorce is contested or uncontested, involves a prenuptial agreement, needs child custody or child support terms to be negotiated, or involves more complex issues, a family law attorney at our firm can inform you of your legal options, provide helpful guidance, and protect your rights.

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