

[Where There's a Will, There's a Way](#)

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A large segment of our population views animals as companions and family members. We love our animals dearly, speak to them, celebrate them and enjoy an emotional bond with them. Animals reflect our humanity. Despite this, our laws often do not adequately protect, or even consider, the relationship between humans and animals, so individuals must take steps to do so.

How do we protect our animals? We have to consider things that are unpleasant to think about – emergencies, divorce and separation, our own incapacity and even our own death.

We have to ask: Who will take care of my pets if I have a heart attack, if I have a stroke, if I develop a debilitating disease, if I get into a car accident, when I die? Admittedly, no one likes to think about these things, but our animals' lives and continued well-being may very well depend on the plans we make now for things that may happen in the future.

Some very simple measures can be taken with little or no expense, such as carrying Animal Cards in our wallets and maintaining Animal Documents. These provide basic instructions regarding our animals. Additionally, some formal documents, prepared in advance, can go a long way towards protecting our animal friends. Including our wishes and directions with respect to our animals in our personal documents, such as our powers of attorney and our designation of guardian, and considering our pets in prenuptial agreements, may affect the lives of our animals in the event something unfortunate happens in our lives or loves.

While we all dislike facing our own mortality, what will our animals do without us to protect them and look after them? There are several ways to plan ahead for the continued care of our companion animals. One of the more basic methods is to include them in our wills. We all should have a will anyway, and it is reasonably simple to include either an unconditional or conditional bequest with respect to the care and disposition of our animals. While including our animals in our wills can provide some protection, this method also has some drawbacks. There may be a fairly considerable time gap between our passing and the probate of the will, and often there is no one to ascertain whether the beneficiary is honoring our directions regarding the care of our animals.

Another option is to set up a trust with animal care as the intended purpose. A "Pet Trust" can be created in which we give our animal and some money to a trusted person (a trustee) who is then under duty to make arrangements for the proper care of the animal according to the instructions in the trust. Trusts can be incorporated into wills (testamentary), or they can stand alone, as private, legal documents created while we are alive (inter-vivos). A wide variety of considerations and factors come into play when we decide what we want to include in drafting a trust. Trusts can be quite basic or very detailed. We have to choose a responsible caretaker, an appropriate trustee, and decide whether to identify our animals or draft the trust to include any animal that we own at the time of our passing. It is very important to make a careful computation of the amount

needed to fund the trust, and to decide on the sources of funding. Trusts can describe the desired standard of living for our pets in great detail, and guide the chosen caretakers and trustees regarding what we would consider appropriate care for our animals.

While popular culture and the media seem to have clued in to how important our animals are to us, the prevailing public view of pets is still at odds with the legal view. We, as pet owners and animal lovers, can help bridge that gap by taking steps now, to provide for the continued care of our companion animals in the future.*

* The information provided in this article is not legal advice and should not be construed as such. The material is provided for informational purposes only.

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