

McChesney Law Firm Newsletter

The Importance of Including Your Pets in Your Estate Plan

Happy New Year!

Happy New Year from McChesney Law Firm. We hope that 2018 finds you and your loved ones happy and healthy. In this newsletter, we wanted to highlight for you the importance of including your pets in your estate plan.

Our Pets are Family Members

Most pet owners feel that their pets are members of the family. Yet each year, many pets in Florida are given to shelters or abandoned when their owners die. Dogs, cats and other pets often live for decades. If you don't make arrangements now, then State law could dictate who gets your pets.

Did you know?

Because an animal can't own property, your pet also can't be a beneficiary in your will or living trust. If you mistakenly name your pet as a beneficiary, whatever property you tried to leave it will probably go to the person you named as your "residuary" beneficiary. So if you name your pet as a beneficiary of your property the result may be not at all what you intended.

What Options Do You Have?

You have several options to ensure that your pets are taken care of the way you want.

1. Your Will: We can draft or update your will and include your pets. You should first find a person or organization you trust that is willing to care for your pets. Have a very candid conversation with them about how to care for your pets and how expenses will be met. You can leave money in your will for the caretaker to care for your pets, but keep in mind that once the pet is given to them, they are free to do what they want with that money and there is no legal recourse if they use it for something else.

2. Give Instructions in Your “Separate Writing” or “Letter of Instruction” Authorized by Your Will: This is slightly less formal. With this option, you simply tell your personal representative who should care for your pets when you die. This option is the easiest and most flexible, but only if you fully trust those involved and are sure no one else will try to claim your pets.

3. Pet Trust: This is a stronger, more complicated legal option. Pet trusts create a legal obligation to care for your pets (as you describe). They provide accountability for the money that you leave to the caretaker, and they allow you to set up a caretaking plan that will take effect if you become incapacitated. If the caretaker fails to follow your instructions, he or she can be sued.

However, pet trusts can be expensive to maintain so it is important to consider the amount of assets you plan to put in the trust and the expenses. It may make sense to do a traditional bequest with a trusted individual. It is important to determine if you want to fund the trust while you are alive or upon your death. If the Florida Pet Trust will be funded upon your death it can be created with provisions added to your Florida Will or Florida Revocable Trust and is called a testamentary pet trust.

McChesney Law Firm, P.A.: 904-437-4036

