

## CREATE A TRUST FOR THE CRITTERS WHO TRUST YOU

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No one can resist the welcoming wag of your dog's tail, or your cat's contented purring, or your horse nickering a welcome over the pasture fence. That is why we bristle with indignation when we read articles that detail the fate of horses abandoned by their owner, locked in a barn with no food or water, their hooves so mired in manure that it is a miracle that they are saved. Our blood boils when we read of the sad scene discovered at a clandestine puppy mill where dogs of all shapes and sizes were chained in small wire cages stacked three and four high so that the animals in the top tier were defecating and urinating on those below. It galvanizes us to action when we see the box of abandoned kittens, dead at the road side.

As responsible pet owners, we want to provide our pets with the best of care. Food, shelter, grooming, exercise, and liberal doses of love and attention assure us that our pets will enjoy a good life with us until their death. But, what becomes of them when the unexpected happens and our horses, dogs, or cats outlive us?

Unless you make specific plans and share those plans with family, friends, or legal advisors, the question remains unanswered. Those plans should include immediate or temporary care in the event of your incapacity or death, as well as permanent plans contained in provisions in a trust for that purpose created either during your lifetime, or in your Will. We have the ability to provide for our pets, thanks initially to the passage of P.L. 2001 c. 144 (New Jersey Statutes Annotated 3B:11-38, *et seq.*) to appoint a "Pet Trustee", someone who has agreed to serve in that role should you become incapacitated or die. In July of 2017, New Jersey adopted the Uniform Trust Code, repealing the 2001 statute and replacing it with an updated version with more liberal provisions, removing restrictions regarding the amount of time a pet trust can endure.

Before pet trusts became enforceable in New Jersey, most people would provide for pets by leaving a friend or family member a cash bequest in their Will, coupled with language expressing the desire that the money be used to care for their pets. No court would enforce that bequest because until the passage of the Pet Trust statute, animals could not be beneficiaries. Rather, animals were viewed as mere possessions, and thus not capable of having an enforceable trust created for their benefit. Now that that concept has changed, we, as pet owners, have the power to provide for our pets' care into the future.

While the ability to create a trust for your pets may seem paramount, remember to also make arrangements for the period between your death and the time the trust goes into effect. Consider leaving a detailed set of instructions where family, friends, your attorney, your executor, and, of course, your selected pet trustee can find them. These instructions should deal with the immediate problem of what's to be done with your pets. To facilitate these instructions, and in conjunction with the preparation of wills, I provide my clients with a simple form which addresses, among other things, my client's wishes with respect to the immediate care of household pets and other animals. By having these directions in place, you bridge the gap in coverage that may occur after your incapacity or death. One only has to recall the tragic events of September 11, 2001, or during the aftermath of Hurricane Katrina in 2005, or Hurricane Sandy in 2012, when hundreds of pets were stranded in their homes because the owners were missing or evacuated, to recognize the need to plan ahead.

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