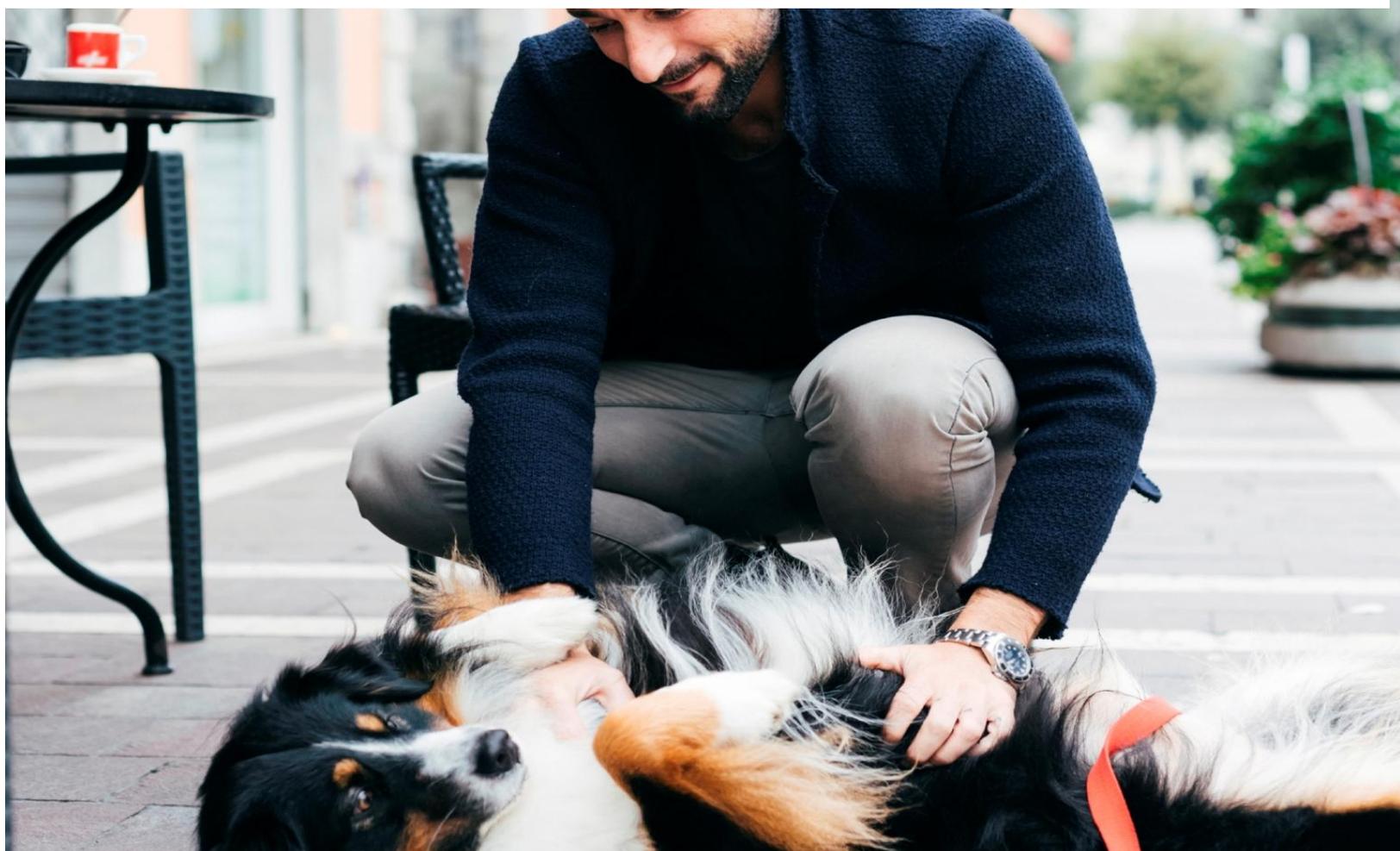


ESTATE PLANNING FOR PETS IN ARKANSAS

*“If you have a family pet, you know it is a lifelong companion
that has become a part of your family”*



DEBORAH SEXTON

FAYETTEVILLE ARKANSAS ESTATE PLANNING ATTORNEY

Pets cannot own property, so technically, they cannot inherit from you directly, even if you include such terms in your will.

If you have a family pet, you know it is a lifelong companion that has become a part of your family. Many pet owners want to make sure their pets are well taken care of, after the owner's death. You may have considered simply leaving something in your will for your pet, but this does not really work the way you might think. Pets cannot own property, so technically they cannot inherit from you directly, even if you include such terms in your will. However, you can include special provisions for your pet in your comprehensive estate plan.



CHOOSING SOMEONE TO TAKE CARE OF YOUR PET



Many people have an understanding that a certain family member or friend will take in their pet, if they pass away. You can make this agreement more formal by appointing that person as the caregiver, as part of your estate plan. There are also private organizations that are dedicated to providing care for pets after an owner's death.

Whichever route you decide to take, be sure the individual or organization you select is reliable and willing to provide the care you expect. If you choose a personal friend or relative, make sure you are confident that person will agree to take on the responsibility. Discuss your wishes and the specifics of your care plan openly with the caregiver you choose, to make sure everyone is on the same page.

INCORPORATING PROVISIONS FOR YOUR PET IN YOUR WILL

Creating a pet plan requires more than simply appointing someone to provide care. You must also include provisions for the expenses necessary to provide care for your pet. Since pets cannot legally own property, you cannot leave money to your pet in your will. The proper way is to leave your pet to your chosen caregiver, along with sufficient money to provide proper care.

In essence, your pet will legally belong to the person you have chosen as caregiver. But merely including these provisions in your will does not guarantee the pet will receive the care or the money will be used for that purpose. The provisions in your will do not create a legal obligation. This is why, it is crucial that you choose someone you trust and are confident will follow through with your instructions.

CREATING A PET TRUST

It may be that you have not found someone you trust, or that will agree to voluntarily take on this responsibility. In that case, there is a more formal option which creates a legal obligation. A pet trust creates a legal obligation to provide the care for your pet, according to the terms and instructions you set out in the Trust Agreement. That way, if the caregiver fails to follow the terms of the trust, he or she can be held legally responsible for violating those terms.



A pet trust is obviously a little more complex than including provisions in a will, and somewhat more expensive. However, the legal obligation it creates, and the reassurance that brings, can be worth the time and money. Another benefit of a Pet Trust is that you can also provide instructions for care in case you become incapacitated before your death, and are no longer able to provide care for your pet.

PET CARE AGREEMENTS

Yet another option that you can consider is a Pet Care Agreement, which is simply a contract. It is more formal than a will, but less complicated than a trust. A Pet Agreement can establish continuing care for your pet, in the event of incapacity or death. Going this route can be more effective and affordable than the other two methods. But the choice is yours.

WHAT IF I DON'T HAVE A PLAN?

The harsh reality is, your pet will always be considered by the courts as merely property, and part of your estate. If you do not have any provisions for the care of your pet, upon your death the pet will be given to your residuary beneficiary through the probate process. That person inherits the remainder of your estate, after all other assets have been distributed.

Without a will, your pet will be included with your personal property and distributed pursuant to your state's laws of intestate succession. This is why it is very important to plan ahead, to ensure that your family friend will always be well taken care of.

If you have questions regarding pet planning, or any other estate planning needs, please contact the Deborah Sexton Law Office [online](#) or by calling us at (479) 443-0062.

About the Author

Deborah K. Sexton



As the sole attorney in the Fayetteville law firm of Deborah Sexton Law Office, Deb oversees a practice devoted to providing clients with the best in estate planning.

Deborah Sexton, C.P.A., J.D., L.L.M., combines an extensive background in accounting with a wide range of legal experience to provide her clients with a uniquely practical perspective. An attorney since 1983, she now devotes her practice primarily to estate planning and elder law.

EXPERIENCE

After obtaining her undergraduate degree in accounting from Abilene Christian University in Abilene, Texas, she worked in Dallas in public accounting for several years, and then went to the University of Arkansas Law School in Fayetteville. Upon graduating from law school, she went on to obtain an L.L.M. degree in Taxation from New York University.

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