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Trusts devised for care of pets when owner dies

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CRESCENT SPRINGS - For many senior citizens, a dog or cat is a loving companion during their final years. However, many owners worry about what will happen to their pets after they pass away.

"This is a problem for pet owners who fear they'll leave their pets to an uncertain future, but it's also an issue for the children and heirs of the deceased pet owner," said Jennifer Leonard, a lawyer with the Horwitz Law Firm in Crescent Springs. "They may not want the expense or responsibility of caring for their late parent's pet for what could be years."

Leonard said pets should be part of every estate planning conversation and a pet trust - a trust that is valid in Ohio, Kentucky, and Indiana but not all states - is the solution to many of these concerns.

"Under the law, pets are considered personal property and if no alternate provision is included, they will be distributed to the beneficiaries who receive all the other personal property," said Leonard. "It's unacceptable that a beloved pet is treated just like furniture, jewelry and clothing."

Leonard said there are several problems with that. Unlike other assets, pets need love and attention.

"Many of my clients do not consider their pet as personal property but rather a member of the family," said Leonard. "Instead of treating their dog or cat as personal property, the question they ask is 'who do I want to name as guardian of my pet?'"

Leonard remembers her mother teaching her about the expense of pets with her first dog - a yellow lab named Betsy.

"This 'free' puppy wiped out my 11-year-old net worth of \$120, which was spent at the first vet visit," said Leonard.

Leonard - now the owner of a beagle mix named Mayzee - said pet trusts can solve those issues.

"Pet trusts are established for the benefit of an owner's pet," said Leonard. "They pay the expenses - food, vet bills, kenneling - after the owner has passed away. The grantor of the trust - the pet owner - establishes a trust with specific directions for the care of their pet. One of the most important decisions an owner has to make is who to name as the trustee and the caretaker of the pet."

Leonard said those two roles are vital.

"An owner will want to choose a trustee who is trustworthy and has the ability to carry out the trust terms," said Leonard. "They have to make sure the caretaker is doing what they are supposed to do."

Leonard said naming a caregiver is a delicate matter.

"The owner should talk to the potential caretaker prior to establishing the trust to ensure that he is willing to care for the pet. There's a lot of responsibilities that go into caring for a pet."

Leonard said that while the trustee and the caregiver can be the same, she doesn't recommend it.

"For instance, naming your son as both trustee and caretaker could potentially be hazardous for the pet," said Leonard. "Although the trust would direct him to use the assets for the pet's benefit, there is nobody to enforce this and ensure that he is following the terms of the trust."
