

ESTATE PLANNING FOR YOUR PETS

Some of you may laugh at this subject and other's will take it very seriously, either way it is something all of us need to think about when estate planning. We have an Extension Mont Guide titled "Estate Planning Tools for Owners of Pets & Companion or Service Animals" and within that guide it gives you the tools needed to think about what happens to your pet if you die or become incapacitated.

So what does happen to the pet if you die? A pet is legally considered tangible personal property, just like dishes, furniture or jewelry. The pet will pass to beneficiaries by provision in an owner's will, by directive in an owner's trust document or by a priority list of heirs contained in the Montana Uniform Probate Code (UPC). When UPC applies and if there are multiple heirs, often they may end up in court arguing about who gets to have the pet, or no one wants the pet and then it is up to the judge to rule where it goes.

Therefore, selecting a caregiver is very important. The name of the selected caregivers should be documented in writing and placed in a location this is found easily in case of an emergency or disability or death of the owner. Pet owners should also give detailed instructions on food and diet, vaccination and health checkups, socialization and behavior, compensation for the caregiver, etc.

Having legal documents such as a will, living or testamentary trust or durable powers of attorney will all help in carry out your wishes for care of a pet in the future. If a will is written the pet owner can provide instructions in a written will giving broad discretion to the personal representative for making decisions about the pet and for using funds from the estate on behalf of the pet. While a will may give these directives, it can only be executed upon death of the owner, so it does not address pet care during disability or incapacity. Also, often it takes time for an estate to go through probate during which time the pet is in limbo without any funds for care.

A pet owner may create and fund a pet trust in which the owner names a trustee to manage the funds for the benefit of the pet. The trustee may not use any portion of the principal or income in a trust for any other use other than for those specified by the trust instrument for the pet. There are different ways to set up a trust either as a living trust or a testamentary trust and both are defined and go into greater detail within the MontGuide.

A durable power of attorney authorizes someone else to conduct certain acts on his or her behalf if the pet owner become physically or mentally incapable. They can be designated to utilize funds or other property as may be necessary to provide for the health, care, and welfare of the pet. Durable power of attorney does cease at the death of a pet owner so having a trust set up for the continuing care of the pet, needs to be considered.

Another point to consider is making sure the pet is clearly identified with a description of color, markings, scars, vet records and pictures or having a micro-chip implant just in case the pet ends up at a shelter, etc. By doing some simple steps ahead of time you can ensure that your pet is well taken care of regardless of the circumstances.

For more information contact the MSU Powell County Extension Office at 846-9791