

## HONORARY TRUSTS FOR ANIMALS

If you are like most people, your family's pets and horses are more than just animals—they become members of the family. They're your children's friends, the greeters to visitors, and may even travel with you on family vacations. And like your children, you want the best for them, the best quality of veterinary care, quality food, comfortable beds, lots of attention, and more toys than they probably need. Even if you don't anthropomorphize your horses, like some of us do with dogs, every horseman wants the best for a good horse. As Gordon Grand wrote of Colonel Weatherford, "he never sold a horse that carried him well." Everyone can relate to that feeling.

But you probably haven't thought about what happens to your animals in the event of your death or legal incapacitation. Hopefully, you've already legally executed a will, living will, and powers of attorney—especially if you have minor children. But what happens to your animals? Who is going to take care of them, ensure that they get the same quality of care you've always provided, and guarantee they don't end up unwanted and uncared for in the event of your death?

In 1995, Colorado enacted a statute that permits the establishment of an honorary trust for the benefit of pets. This "pet trust" is an arrangement that provides for the care and maintenance of your pet or domestic animal in the event of the grantor's disability and/or death. It is unclear whether horses are considered "domestic animals" under the statute. Although honorary, a pet trust will be construed liberally under Colorado law to carry out the general intent of the grantor. The grantor, the person who creates the trust, entrusts a person with managing the trust and holding the money in trust for the benefit of the animal. The grantor can then identify instructions for the care of the animal.

**More specifically, the trust can:**

- Identify a trustee and alternate trustee;
- Identify a caregiver and alternate caregiver;
- Identify your domestic animal adequately enough to prevent fraud (through a chip implanted under the animal's skin, DNA, or a photograph);
- Describe in detail the standard of living and type of care you want your animal to receive (including the type of food your pet prefers and the exercise routines your pet typically gets);
- Explain any health conditions your animal has (including medications and routine health treatments);
- Determine the amount of property needed to adequately cover your animal's expenses;
- Specify how the funds should be distributed to the caregiver;
- Designate a remainder beneficiary in the event that the funds in the animal's trust are not exhausted; and
- Provide for the final disposition of your animal.



If you are unable to set aside money for the trust, it may be possible for you to fund the trust by having the beneficiary of your life insurance policy use the money for the pet trust. However, the courts may have the discretion to step in if they think that you've put too much money into the trust. And beneficiaries may contest the validity of the trust, if there is a great amount of money propositioned for it. In addition, the Colorado statute requires the trust to terminate when there are no living animals and/or offspring in gestation covered by the trust.

Pet trusts can be the way for you to ensure that your animal is taken care of in the event of your death or legal incapacitation. Following a death, despite everyone's best intentions, pets are often overlooked during the confusion and grief that follows. This may result in your pets being neglected, overlooked, forgotten, or sent to a shelter to be prematurely euthanized. Consult with your estate planning attorney about pet trust provisions to see if they may be right for you. **H**

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