

# Shared Custody of the Moose

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When I meet with clients to discuss their wills, many of them are very concerned about the welfare of their pets. Like their children, clients want to name a guardian for their pets. Unfortunately, I have to burst their bubble and inform them that under the law, pets are considered personal property; in other words, they're looked at no differently than furniture or tools.

I explain that we can dictate in our wills who will receive our pets, but they are not court appointed guardians and there is no oversight of the pets' care. Many people are crushed to learn this. We have set up elaborate trusts that provide funds to take care of the pets and funds for their caregivers. Some families, however, had strings attached to the dollars so that the caregivers could only receive funds if the pets got regular, satisfactory exams from veterinarians.

The same concept applies in a divorce. The exes often vie for custody of their children. They plead their cases to the judge as to why they would be the most fit parent and an independent attorney, known as a guardian ad litem, makes recommendation to the judge as to placement.

Pets, however, just get divvied up along with the appliances and knickknacks. Except in Alaska.

Although Alaska was the 49th state admitted to the Union, it was the first to pass a pet custody law in the event of a divorce.

Last month, Alaska amended its divorce statutes to require courts to take "into consideration the well-being of the animal" and to explicitly empower judges to assign joint custody of pets. According to the Animal Legal Defense Fund's blog, the new rules are "groundbreaking and unique." Like with children, the judge is tasked with determining what is best for the pet, not necessarily its owners.

In addition to deciding custody, judges are also allowed to include pets in domestic violence protective orders. Similarly, the owners of pets seized in cruelty or neglect cases are required to cover the costs of their shelter.

It may be a surprise that such an avant-garde law would come from somewhere like Alaska. However, the measure was introduced by former representatives Liz Vazquez and Max Gruenberg. During his time as a family lawyer, Gruenberg once handled a divorce that resulted in joint custody of a sled dog team. Gruenberg passed away last February and Vazquez lost her seat after the November election.

Last year, Vazquez claimed that, "Our pets are members of our families." She insists that, "We have to remember that we're sent here to Juneau to represent people; real human beings, many of whom have pets they love as much as their friends and family."

Americans reportedly spend \$60 billion on their pets each year. It's no wonder they want to fight for custody in the event of a divorce. Up until now, divorcing couples across the country have unsuccessfully asked judges to rule on visitation of pets and even for support payments to take care of them. Other states will undoubtedly be following the success of Alaska's law to see if they should implement such a measure.

Just like with children, I'm sure it's stressful for pets to have their owners fight over custody. I'm guessing it's resulted in more than one "melancollie."

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