

# MASSACHUSETTS PET TRUST STATUTE IS SIGNED INTO LAW

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On January 7, 2011, Governor Deval Patrick signed into law the Massachusetts Pet Trust Statute which will take effect on April 7, 2011, ninety days after being signed into law.

For the first time in our state's long history, Massachusetts pet owners will be specifically empowered to create pet trusts that will fully reflect their wishes if the pet owner should become institutionalized, incapacitated or die. The new statute removes the barriers as to the amount of years a trust could run to benefit many long-lived animals. Prior to the enactment of the Pet Trust, there were certain obstacles in the way for the fulfillment of these trusts. However, the new statute removes such an impediment.

Additionally, the statute provisions for trustees or courts to name subsequent caretakers in the event there are no successor caretakers named. The statute provides a method for appointment of successor caretakers if and when such appointment becomes necessary, thereby creating a statutory fall-back provision.

Most importantly, the Pet Trust Statute provides notice to the court that the legislature intended that pet owners as a group are committed to providing for their pets, and that pet trusts are not the brainchild of a few overly-concerned pet enthusiasts who wish their pets be cared for in their absence. Further, this new statute will provide many animal-based organizations (some may be named trustee or remainder beneficiaries of such trusts), giving them the standing they need to be actively involved in ensuring that the pets' care and the pet owners' specific directives are carried out. Lastly, this new statute removes any unforeseen obstacles that could be placed in front of a potential litigant such as enforcement, standing, or trust termination issues.

With a Pet Trust in place, pet owners can give specific and detailed instructions pertaining to their pets' medical care and maintenance. In addition, veterinarians will benefit from the Pet Trust Statute in that they will be able to continue to provide uninterrupted medical care to their animal patients while receiving regular payment, even after the pets' owner is no longer alive, or is incapacitated or unavailable. Lastly, the benefits of pet estate planning are enormous, as the creation of such provisions can also assist other animals that reside in the trustee shelters by providing care, financial support, and placement for other animals many years in the future.

In summary, pet owners can now be assured that with the new Pet Trust Statute in place, that their directives under their Pet Trust agreement will be carried out, that continuity of care for their long-lived animals will be uninterrupted, and that there is a "recognized" legal procedure in place to appoint successor caretakers or trustees should either become unavailable or unable to serve.

*(Mary Kay Elloian, Esq., M.B.A., is an attorney who practices in the area of Estate Planning with an emphasis on Estate Planning with Pets, and provides seminars to animal groups and veterinarians interested in educating themselves and their clients about the benefits of including pets in estate planning. For more information, visit: [www.mkelaw.net](http://www.mkelaw.net), email Attorney Mary Kay at [counsel@mkelaw.net](mailto:counsel@mkelaw.net), or call 781-275-2225.)*