

## **“Who Gets Custody of the Pets After Divorce?”**

By Alicia Williamson on 5/14/2008

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When it comes to divorce, it's very common for couples to fight over custody of the children, but today, more than ever many couples are fighting over custody of their pets. What are the reasons for so many pet custody battles and why the increase in bitter battles for pets? One of the primary reasons is because our society has grown more and more attached and fond of their pets, and so when a divorce occurs, it's difficult to determine who will or should get custody of the animals.

### **Statistics of Pets in American Households**

According to a survey by the American Pet Products Manufacturers Association, <http://www.appma.org/> in the U.S alone, there are about 74 million pet dogs in 43.5 million households, and 90.5million cats in 37.7million households. Based on those numbers, it isn't hard to see how popular and important pets are to their human companions and the bond that exists between people and their animals. And because of the large numbers of pets, it's easy to see what can happen to pets when a marriage ends in divorce. For the most part, there are usually three ways a pet situation can go. One scenario is that an animal is displaced, and ends up in a shelter. Other times, people work out the situation so that one keeps the pets and the other has visitation. And the last situation is when couples fight over the pet and a custody battle ensues.

### **How The Law Sees Pets Regarding Divorce**

For the most part, the law doesn't see pets any different than the property a couple divides on the basis of equitable distribution. Even on occasion when a judge realizes that a pet has a special place in the family's life, the law doesn't respect that recognition. In fact, in most states, pets are simply considered as property and treated as property in a court of law. But that doesn't prevent couples from fighting bitterly over their pets just as they would if the pet were a child. One after the other high profile cases show the lengths people go to keep their pets with them or away from their ex partners. A few reported cases are as follows:

- In 2001, a woman in Texas was sentenced to 30 days in jail for refusing several orders from a judge to turn over the two cats her ex was awarded in the divorce case.
- In San Diego County a couple waged a two-year battle over their dog, which wound up costing over \$146,000.
- In another case in Maryland, two years after their divorce, a couple is back in court fighting over their dog. The circuit judge has threatened to sell the animal and split the proceeds between them if they can't agree on visitation. The wife has spent \$20,000 to keep the dog.
- In Dallas, a couple has spent \$16,000 in lawyer fees fighting over their dog. After he dognapped the animal for nine days, the wife now gets custody and he gets visitation.

It's very obvious based on these few cases that people have deep love for their pets and will do practically anything to keep them. But sadly, in most cases, judges refuse to address the issue, considering it a waste of the court's time. Several states across the country treat pets in the same way they would in dividing up a room full of furniture. Plainly stated, the dog is part of the marital property and has to be equitably divided according to its value, if value can be assigned. Receipts must be shown proving which spouse has been the functional owner of the pet. In other words, the spouse that has paid for things such as medical treatment, training, grooming, maintenance and upkeep is the one who is considered the owner and gets to keep the dog. In some rare cases, tests have been administered based on the "best interest" theory for custody, which measure the degree of attachment between pet and human.

### **How Do Animals React to a Split?**

While some people don't realize it, dogs and cats are not devoid of feelings of loss, depression and anxiety. They also don't understand why the person has left, so it can affect the behavior of a closely bonded animal. Usually, the animal will go through a period where they look for the absent person, obviously saddened they're not there. But, generally, after a time, most animals adjust to the person being gone. Many dog trainers report getting calls about pet behavior from those who don't realize that the break-up of the relationship was the cause of the pet's distress.

### **Pet Custody on the Rise**

According to a poll taken by members of the American Academy of Matrimonial Lawyers, [www.aaml.org](http://www.aaml.org), the number of pet custody cases is on the rise and until things change according to law, most courts will continue to treat pets as property. Based on the law, it's probably best for a divorcing couple to make every attempt to negotiate pet custody amicably on their own rather than getting the courts involved.

### **About the Divorce Attorneys at Straight Divorce**

A good [divorce attorney](#) can help make the transition a little smoother. Straight Divorce is committed to helping people through the divorce process or modifying their divorce decrees that reflect on their current personal and economic situations. Having successfully assisted thousands of individuals with divorce situations for over a decade, Straight Divorce attorneys make the divorce process as simple as possible. The lawyers at Straight Divorce are available for consultation. To speak with an attorney, please visit Straight Divorce at [www.straightdivorce.com](http://www.straightdivorce.com) or if you are ready for the services of a [divorce attorney](#), please call us at 1.800.353.6058 or e-mail us at [articles@straightdivorce.com](mailto:articles@straightdivorce.com) for assistance.