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PET “PRENUPS” | PLANNING FOR PETS AFTER A BREAKUP

[Couples are living together before marriage more than ever before.](#) Perhaps unsurprisingly, for many of those lovebirds, a long-term future together is not always in the cards. When breakups happen, it's challenging enough splitting up tangible property, kitchenware and furniture that was mutually acquired over the course of the relationship. But, there is another issue that far too many couples in this situation have to consider:

Who gets the family pet?

For couples that decide to bring a furry companion into their mutual lives, things can turn nasty when it comes time to part ways, especially when it relates to deciding what is going to happen to that pet. It is often a topic of heated disagreements between couples in the midst of a split.

So what are they supposed to do? Well, my answer to that is I have no idea.

But, for couples that are still on good terms and thinking about potentially bringing a canine or feline friend into their relationship, I suggest considering a “pet prenup.”

Prenuptial agreements are relatively common amongst couples on the verge of tying the knot, however, the concept has been gaining popularity amongst progressive unmarried couples looking to minimize the chance for heated disagreements to arise over what should happen to a co-owned pet should their relationship hit the skids.

Admittedly, I wasn't aware of the concept until recently reading about a [certain couple in New York locked in a bitter custody battle over their three dogs.](#)

After some reading on the topic, I realized that pet prenuptial agreements and cohabitation agreements specifically dealing with pet custody and care are far more common than I realized.

So, how does it work?

To begin with, pre-nuptial agreements, marital property agreements, or whatever they may be called in your state are meant for two individuals in a legally binding marriage (as the name obviously indicates). So, if you are in a committed unmarried relationship and living together, you aren't signing a “pre-nup” per se.

Instead, it can be easier to think of this arrangement as a [cohabitation agreement.](#) Cohabitation agreements are valid in most states, though not all (ahem, Illinois). So the first thing to consider is whether your state even permits them.

If a cohabitation agreement can be validly executed and enforces in your state, then it can be a convenient mechanism by which to lay out the rights and responsibilities of each partner in the event the relationship falls apart and the couple parts ways.

Items to specifically cover are:

a) How will property and household items be divided amongst the partners- especially when those items were joint purchases during the relationship?

b) Who should keep the apartment or condo? Can they afford to? Should the partner that is staying contribute to utility expenses? Should the partner that is leaving be entitled to some form of payment for agreeing to leave?

c) For couples that have been together a substantial amount of time, should there be an obligation of support payments?

These agreements do not have to only contemplate what happens if the relationship ends, but they can also detail rights and responsibilities during the relationship as well.

When it comes time to discuss what should happen to the couple's pets, it's important to consider a number of issues like:

a) Who actually purchased the pet? Remember, that no matter how much we feel like they are akin to children, under the law, pets are treated as personal property. In that regard, they are not much different than your living room sofa. So, in the event a court needs to decide who the pet should live with (yes, people actually fight in court about this), it is going to look to who legally owns the pet. Did one person make the payment to the breeder or pet store? Is there a receipt or bill of sale? If so, this person is likely going to keep the animal absent some other arrangement.

b) Owning a pet is not cheap. Should both partners be responsible for supporting the animal, paying for vet visits and medical care, etc?

c) What about the right of the non-owning partner to visiting the pet? While nothing like custody arrangements of children in a divorce, many people understandably are incredibly attached to their pets and would have a hard time simply giving them up. To ensure that doesn't happen, the partners can agree on potential shared "custody" arrangements for the pets while they are still on good terms.

The idea of a "pet prenup" is an interesting one, to say the least. More akin to a simple contract than a marital property agreement, it can be limited in its content and structure; but coupled with a [pet trust](#), it presents an interesting and creative option for those committed joint pet parents that want to make sure their relationship with their pet stays rosy even if their relationship with each other doesn't.

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