**KNOW YOUR LEGAL RIGHTS**

**Which spouse gets the pet in a divorce?**

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By April K. Splittgerber

In Wisconsin, pets are classified as personal property. Courts approach disputes over pets by analyzing them as they would any other piece of property, such as a refrigerator or stove. If you and your spouse cannot agree on who will keep the pet, the court is obligated to divide assets and debts equitably. This process involves assigning a monetary value to the pet and awarding ownership (along with the associated value) to one spouse. Unlike minor children, courts are not required to make findings and orders on custody or physical placement of pets. Without an agreement, the court may treat pets as equivalent to furniture or other household items.

**The Court Process**

Although courts are required to fairly divide assets and debts, spouses have the option to negotiate agreements that treat pets more like children than property. Some judges or commissioners may be sympathetic to looking at pets as children, rather than property. For families with both minor children and pets, a practical solution could involve aligning the pet’s placement with the children’s placement schedule. However, it is important to note that courts do not order such arrangements unless the parties mutually agree.

**Drafting a Pet Agreement?**

Courts value thorough and well-considered agreements between parties. Taking additional time to specify responsibilities ensures a higher likelihood tha

t a court will accept the agreement and helps prevent future disputes by clarifying each spouse’s obligations.

Specific responsibilities may include the following:

* **Primary ownership:** The parties may agree to share placement of the pet, with one party retaining primary responsibility.
* **Visitation schedule:** A specific schedule ensures that the non-primary owner has consistent opportunities to spend time with the pet, including whether the non-primary owner should have a “right of first refusal” when the primary owner is unavailable, in lieu of boarding the pet.
* **Decision-making authority:** The agreement should clarify who has the final say regarding important decisions about the pet, such as surgery or euthanasia.
* **Financial responsibility:** Clearly outline which party will cover costs associated with the pet’s food, grooming, veterinary care, insurance, licensing, boarding, training, and other expenses.

**What Do We Have to Do to Make Sure a Court Approves Our Agreement?**

When spouses reach an agreement, it is written up in a Marital Settlement Agreement. This document specifically outlines the terms agreed upon by both parties. A pet custody agreement can be included within the Marital Settlement Agreement. If there is an agreement, be sure to be as detailed as possible. A comprehensive agreement including information on primary ownership, visitation schedule, decision-making authority and financial responsibility ensures you and your spouse understand the nature of your agreement.

**Can't Agree on Your Pet in a Divorce? Here's What to Do.**

When spouses fail to reach an agreement regarding a pet, the matter is ultimately decided by a judge. The judge will consider testimony about each spouse’s relationship with the pet. Other factors the judge could consider are who served as the primary caretaker, whether financial contributions were made for the pet’s well-being, and why the pet should be awarded to a particular spouse. Additionally, the judge may consider living arrangements, whether the pet belonged to one party prior to the marriage, and, if children are involved, the bond between the pet and the children. After reviewing the evidence and testimony, the court will likely assign a monetary value to the pet and treat it as an asset awarded to one party during the divorce proceedings.

**Conclusion**

To avoid placing your pet’s future in the hands of a judge, it is advisable to reach an agreement with your spouse. Courts generally accept mutually agreed-upon arrangements, allowing you to retain control over decisions concerning your pet. These agreements can address who will care for the pet, how expenses will be shared, and visitation rights. Reaching an agreement provides clarity for the court and helps prevent future disputes.

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