



# Factors Courts Consider In Pet Custody Cases

## Description

With their unwavering loyalty and boundless affection, pets often find a cherished place within our families and our hearts. However, if you and your partner have decided to separate, determining the future of our fur babies can be an emotionally charged and stressful ordeal. There are several factors to consider, such as [whom the pet will primarily live with](#), visitation schedules, who will cover vet expenses and more.

Many separating couples often seek resolution through the legal system, turning to the courts to decide. But is this the right course of action in obtaining custody of your pet? This blog post will examine the process for obtaining custody of pets in separation, the factors a court may consider when determining pet custody, and other solutions you may want to explore when deciding how to get custody of a pet.

## Where Family Law stands when it comes to pet custody

It's no secret that there are many available resources for separating partners regarding custody over children and maintaining their best interests, but what about your fur babies? Unfortunately, while you and your partner may see your pet as a cherished member of your family, they are treated as property or a valuable personal asset under the eye of the family court.

Under the Family Law Act 1975 and Family Court Act 1997 (WA), there is no mention of animals or how the court will manage their welfare, and many previous cases have determined pets to be property.

This may mean there are no conversations regarding the pet's best interests, for example, who the animal is closer to — the court instead views the matter as a dispute over an asset and will seek to resolve it in that manner. The court may consider factors such as who bought the pet, cares for it, walks it, feeds it, trains it, pays for its insurance, whose name it's registered in, etc.

Keep in mind that the court may only intervene and determine who will have ownership over the pet should you and your partner be unable to agree among yourselves. In some cases, this is conducted

under a property order that includes the pet. In any circumstances concerning your separation, including pet custody, the court encourages both parties to come to an agreement among themselves to ensure the [right decision is made over the pet's care](#) and to avoid litigation.

## How to get custody of a pet in Australia

First and foremost, it's important to acknowledge that, in Australia, "pet custody" is technically non-existent, as we now know pets are regarded as property, and that custody is an American term. Instead, cases regarding an animal during separation are defined as who has "pet ownership". That said, many online resources may use the term "custody" when referring to pet ownership solutions.

A simple and cost-effective way to determine pet custody in Australia is by creating a [pet custody agreement](#) between you and your partner. A pet custody agreement is a voluntary arrangement between two parties outlining the roles and responsibilities of pet ownership in the event of a relationship breakdown.

Aside from having the peace of mind knowing your pet will still receive the best life and care even if you and your partner separate, there are many other benefits of creating a pet custody agreement. Pet custody agreements are highly customisable, which means you and your partner have the freedom to add whatever details you'd like to your arrangement to ensure it meets both your needs and any specific needs of your pet.

This can also improve clarity and confidence between partners around how decisions will be made over the pet's care, the process for resolving disputes and how changes can be made to the agreement should there be a need to. And as pets can be expensive to look after, from vet bills to grooming and food, pet custody agreements may also dictate how financial responsibilities will be shared, minimising future disputes.

## Obtaining a pet custody agreement — what are your options?

You want the best life for your pet, which means you'll need access to leading resources to ensure your pet custody agreement is formalised by the book. Australian Family Law Advisory Services (AFLAS) is a trusted online resource for a range of Family Law matters, including pet custody.

We provide free expert advice and guidance on pet custody matters and cost-effective resources, like pet custody agreement templates, to ensure a hassle-free process between you and your partner. We acknowledge that separating from your partner is stressful enough, let alone the added anxiety of deciding your pet's future. AFLAS aims to simplify the process as much as possible by being your single point of truth.

## Make the right move for your fur baby — book a consultation with AFLAS today

Know where you stand when obtaining custody of pets in separation. AFLAS gives you access to a range of resources and helpful templates to guide you through your separation. Book a consultation

with a member of our team today to learn more about our services.

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