



Protecting Your Furry Family Member In Pet Custody Battles

Description

From being fantastic companions to bringing smiles to our children's faces, pets hold a special place in our hearts. And in the case of separation, it can make moving into your new phase of life incredibly complicated. Disputes over pet custody in Australia have become all too common, sparking emotional battles and heartache.

While it's impossible to eliminate the emotional strain entirely, many couples often believe they can rely on the courts to assist with their decision-making — however, this also may not deliver the desired outcome. In this blog post, we'll examine why pet custody battles occur and how to protect your pet during separation.

Common reasons for pet custody battles in Australia

No one wants to find themselves in the middle of a pet custody battle with their partner. Not only are they incredibly emotionally draining, but they can also be a costly experience, particularly if lawyers get involved. However, it's important to understand the common reasons for pet custody disputes so that you can remain level-headed, these include:

- **Emotional attachment** — It's natural for you and your partner to have a strong emotional bond with the pet, viewing it as a beloved family member. Emotional attachment can lead to a fierce and uncooperative desire to [retain custody](#), creating a dispute over who can provide a better home for the pet.
- **Children's attachment** — If children are involved, the pet may be deeply attached to them and vice versa. Parents might argue that the pet's presence is essential for the emotional well-being and stability of the children, especially if you've already determined who the children will primarily live with.
- **Financial obligations** — If one party has significantly contributed to the pet's financial well-

being, such as covering veterinary bills, grooming costs, food or other expenses, they might assert a stronger claim to custody based on their ongoing financial investment in the pet's care.

- **Disagreements regarding visitation** — Even if custody is granted to one party, disputes can still occur over visitation rights. Determining the frequency and conditions of visits can lead to disagreements, as both parties may want to maintain a loving connection with the pet.
- **Lifestyle differences** — Differences in lifestyles, living arrangements and work schedules post-separation can complicate pet custody cases. One party might argue that their circumstances are better suited to accommodate the pet, while the other party may disagree. Concerns around neglect or inadequate living conditions may also come up here.

How the court determines pet custody

When it comes to matters regarding pet custody and Family Law, there aren't many mentions of animal custody, making it difficult to have the matter addressed in court. In fact, under the Family Law Act 1975 and Family Court Act 1997 (WA), there is little information regarding how pet ownership is determined — here's why.

Under Family Law, pets are considered as property or an asset. This means separating couples will need to include their pet under a property order or in their Binding Financial Agreement (BFA) if they require the court's involvement.

To determine ownership, the court may take a logical approach you may not agree with. Some [factors they may consider](#) are whose name the pet is registered with and who pays for medical bills, grooming, insurance and other expenses.

So, while it's not the norm, there are some instances where a court may determine custody or ownership over a pet. For instance, if the pet has notable monetary value, such as a premium pedigree dog used for breeding, a farm dog that assists in herding cattle or a racehorse, the court will consider this in its property settlement.

In this case, it's best to resolve any disagreements regarding pet custody with your partner outside of the courts to protect your pet. One way to do this is through a pet custody agreement.

Pet custody agreements — what are they, and how can they help

A [pet custody agreement](#) is a document that outlines the care, visitation schedules and decision-making responsibilities of a pet in the event of a separation or divorce. By formalising these details between you and your partner, the agreement can reduce potential conflicts, maintain stability for the pet and support an amicable relationship between parties.

One major advantage of pet custody agreements is the amount of flexibility they provide to both parties. These agreements can be tailored to suit the unique needs of the pet and the parties involved. Factors such as visitation schedules, holiday arrangements and even specific dietary preferences can be detailed to ensure the pet's comfort and well-being.

To protect your pet and ensure they receive the best care post-separation, having the right resources is essential. That's where Australian Family Law Advisory Services (AFLAS) comes in – we can put you in contact with trusted legal experts who can help you with preparing a pet custody agreement.

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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