

ERIN SMITH



Murawski Photography

MAKING PROVISIONS FOR PETS

By Narielle Living

As an attorney, Erin Smith has handled numerous cases that involve estate planning. She works for both the Elder and Disability Law Clinic at William & Mary and Bank of America, and she knows the choices people face when determining what will happen to their assets.

But one often overlooked yet important piece of estate planning, she notes, is preparing for what will happen with your pet.

Erin grew up in Newport News, Virginia. “I was born in Tampa, Florida, but my father was in the Coast Guard, which brought us here.”

She attended the University of Mary Washington for her undergraduate degree and later went to the Appalachian School of Law in southwest Virginia. “My husband grew up in Williamsburg, so we settled here.”

Erin began working at the W&M clinic in



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2016, and prior to working with Bank of America, she was in private practice. “I practiced law in Williamsburg for about 10 years. Now I’m a senior trust officer on the private bank team in Virginia. I handle large trusts at the bank.”

Leaving money for a pet is becoming more common. In fact, designer Karl Lagerfeld left a large portion of his multi-million-dollar estate to his cat, Choupette. While most people do not have millions to leave for a pet, the care of an animal is an important conversation to have with family and friends.

“We love our pets so much,” Erin says. “Virginia law does allow pet owners to set up a trust, and it can be done either through a revocable living trust or will. I would say that the benefit of doing it as a trust is that you, as the grantor creating the trust, provide protection in the event of incapacity. A will only provides for the pet at death, so you can create a trust within a will. The benefit of a trust would be if you become incapacitated, you can have a trustee caretaker step in while you’re still alive.”

Whether it is a revocable living trust or a will, the beneficiary is the pet, she says. “The trustee would be the person named to invest and manage the money, and you could hire an establishment like Bank of America as an agent to manage the money.”

Erin recommends having different people act as trustee and caretaker for your pet. “This creates a kind of checks and balances between who’s managing the money for the pet and who is actually caring for the pet. Another optional provision would be that you could have a person named to oversee how the pet trust is being managed, and that’s called a trust protector. That’s another party who can make sure that there’s no mismanagement of the funding for the pet, and then you’re also going to want to have a remainder beneficiary for when your pet passes away. You want to make sure that you have a charity or, if you want to leave it to your heirs, you can do that.”

Sometimes, she notes, people forget to leave critical information related to the care of a pet.

“You might want to consider including in the trust or in your will how to identify your pet in the best way possible with microchip information to prevent some kind of fraud. You have to decide in the document how you want the trust funds to be used, whether it’s food, veterinary care, shelter, special medical need, or medicine.”

Of course, sometimes people do not foresee the need for estate planning. They might decide they are too young or don’t have enough money to warrant that kind of thing. But when it comes to a pet, if something happens to the owner and nobody steps up to take the animal, the pet will end up at a place like Heritage Humane Society, a situation that sadly happens way too often.

Erin notes that it is important for pet owners to have some sort of documentation about their pet that lists their daily routines, likes and dislikes, and pertinent information if they need care. “This is who my pet is. This is their daily routine. Their likes, dislikes, their phobias.



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They do well with other pets.” With this information, a facility like Heritage Humane Society has a starting point.

Having a document that allows for Power of Attorney is important, too, she says. “That gives you protection while you’re living, which is really important. And everyone needs to have a basic will, even if you don’t have any assets that would go to probate. If you don’t, then the state has a plan for you and it may not be what you want.” Younger people with children might not think about it, but that’s when it’s even more important to make plans. “It can get really complicated if you don’t have a trust when you have young children. People think, oh, I don’t need a trust because I don’t have a lot of money, but it’s not about having a lot of money.”

Erin and her husband, Brad Smith, live in Williamsburg with their children, 10-year-old son Nolan and seven-year-old son Andrew. Despite her hectic schedule of work and volunteering, she manages to carve out time for

herself and her family. “My 10-year-old plays golf, so we have actually been doing that a lot as a family. That’s actually very fun, something that my husband and I never played. I like yoga, and I really love to read.” In addition, she is on the board for Literacy for Life and the scholarship committee at the Williamsburg Community Foundation. “Bank of America gives us two hours a week to volunteer, which I think is amazing.”

And of course, she has two dogs, one who came from the shelter. On her birthday one year, her friend set up a yoga class at Heritage Humane Society. “It was a karma yoga class or something. You pay a donation and the teacher does the class to benefit the Heritage Humane Society.” On the way to the class, however, she had to walk past a room with puppies. Since it was her birthday, she knew it was meant to be, and she adopted a puppy.

Erin is also much happier since leaving her private practice. “I feel like my life is so much better now that I’m at the bank, because I feel

like I can have deeper relationships with my clients. That was harder when I was in private practice. I love that about my job, getting to know people and their family. I feel like Bank of America really does support being in the community.”

Erin wants to remind people of the importance of having a plan. “I think it’s good to remember that if you don’t have anything in place, your pets will transfer just like your personal property would. And that’s really not ideal. Your pets are living creatures with emotions, and I feel like they love us so unconditionally.” At a minimum, keep an envelope with information about your pet somewhere safe. No one can predict the future, but we can ensure the best one possible for those we care about. NDN

Note: The Heritage Humane Society has a document on their website that people can print and use to describe their pet and any plans they may have for the pet. To access the document, go to <https://heritagehumane.org/>

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