

# What happens to pets in family law proceedings?

## The Family Law Amendment Act 2024 and companion animals

*This Factsheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances, you should contact the ADO or another lawyer.*

### THE LEGAL STATUS OF PETS

Up until 10 December 2024, the *Family Law Act 1975* (Cth) (“Family Law Act”) did not mention what happens to pets, or ‘companion animals’<sup>1</sup>, when a relationship breaks down. Animals are ‘property’ under the law, even though most pet keepers consider their companion animals to be members of the family rather than items of property. So the conventional approach to pets in property settlement proceedings in Australia has been to lump them in with other assets (eg furniture) and deal with them via property settlements, which can include splitting the property between the parties. But how do you ‘split’ a pet?



### THE LAW REFORM

As many Australians consider their pets to be part of the family, recent reform to the Family Law Act to refer to animals in their own right is a welcome change. The changes were made by the **Family Law Amendment Act 2024** (“the amendments”) on 10 December 2024,<sup>2</sup> and commence on 10 June 2025.



The amendments introduce a definition of ‘companion animal’ in the Family Law Act<sup>3</sup>, as well as clarification on how family pets are to be treated in property settlement proceedings.

**Companion animal** means an animal kept by the parties to a marriage or de facto relationship, or either of them, primarily for the purpose of companionship...

The amendments have not changed animals’ legal status as personal property, but they create a specific category of property within the property decision-making framework courts use in property settlement proceedings. As such, the amendments go some way to recognising in law that pets are different from other items of property.

<sup>1</sup> ‘Pet’ and ‘companion animal’ mean the same thing.

<sup>2</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r7234](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7234).

<sup>3</sup> Section 4(1). Some animals, such as assistance animals, are not covered by the term ‘companion animals’.

## WHAT'S CHANGED?

The amendments specify the kind of court orders that can be made about companion animals in property settlement proceedings, and what a court should take into account when making such orders. The court will have to determine which person owns the animal and will no longer be able to order joint custody of an animal or ownership between more than one person. The amendments specify what the court should consider when deciding who should have ownership of an animal following separation, including factors such as:

- Any family violence to which one party has subjected or exposed the other party;
- Any history of actual or threatened cruelty or abuse to the animal;
- Any attachment to the animal by a party of the relationship or a child of the relationship;
- The demonstrated ability of each party to care for the animal without support from the other party.

These considerations are consistent with other national measures to address coercive control in family and domestic violence<sup>4</sup> and acknowledge that animal abuse may be part of coercive and controlling conduct, particularly when a victim survivor has a strong emotional connection to a pet or when the pet has a service or support role for the person.

## BUT IS IT ENOUGH?

While it is a positive development that specific considerations about animals must now be considered by courts dealing with property settlement proceedings in family law matters in Australia, the law could go further in safeguarding the interests of animals. For example, in the United States of America some States<sup>5</sup> have introduced laws to require courts to consider the 'best interests' of the animals themselves in family law proceedings, rather than only the interests of the humans involved.



Australian family law courts have a history of refraining from this kind of analysis when determining what happens to animals after relationship breakdowns,<sup>6</sup> but these amendments are a positive start to recognising the significance of animals to Australian families, and the link between animal abuse and family violence.

### About the Animal Defenders Office

The Animal Defenders Office Inc. ("ADO") is a Community Legal Centre specialising in animal law. We aim to support, empower and advocate for individuals and groups who want to use the law to protect animals, and we aim to do this through providing information, advocacy and advice. If you have a query about anything in this Fact Sheet, or would like the ADO to help you to protect animals, please email us: [contact@ado.org.au](mailto:contact@ado.org.au). To learn more about the ADO please visit our website: [www.ado.org.au](http://www.ado.org.au)

**DISCLAIMER** While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information in this fact sheet.

ABN: 12837355070 | GPO Box 2259 Canberra ACT 2601 | [www.ado.org.au](http://www.ado.org.au) | [www.facebook.com/ADOACT](https://www.facebook.com/ADOACT) | [contact@ado.org.au](mailto:contact@ado.org.au)

<sup>4</sup> For example the [National Principles to Address Coercive Control in Family and Domestic Violence](#), AGD 2023.

<sup>5</sup> For example Alaska, Illinois, California.

<sup>6</sup> *Grunseth and Wighton* [2022] FedCFamC1A 132.