

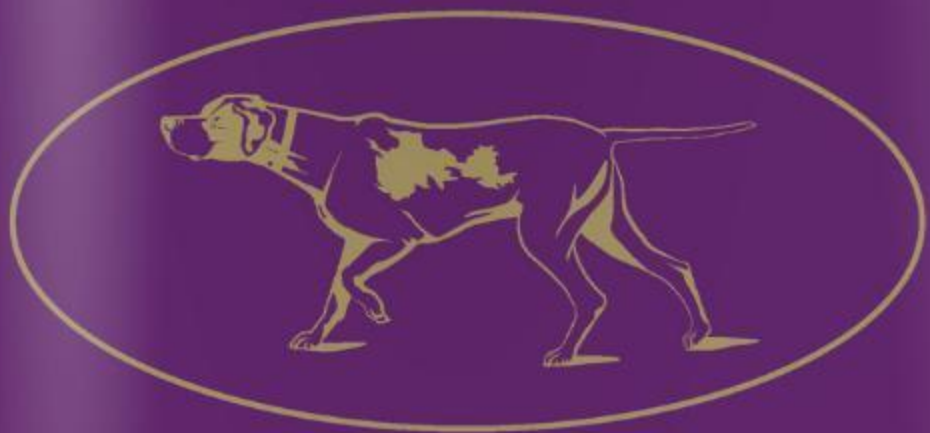
Dog News

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PROTECTING YOUR COMPANION – WHAT EVERY DOG OWNER SHOULD KNOW GOING INTO A DIVORCE

A dog is a prized companion for most owners. Many people treat their dogs just like they would a child, nurturing them and catering to their every need. For these owners, it is a sign of love for their four-legged friends. What, then, would you do if all of a sudden, your dog was no longer a part of your life?

Married couples in the midst of a nasty divorce will use any leverage they can find. With a 23 percent increase in custody battles over pets in divorce proceedings, according to a survey by the American Academy of Matrimonial Lawyers, how is it determined who gets to keep the dog? And what is the impact of a separation on a pet?

This question was in the spotlight a few years ago when Britney Spears and Kevin Federline fought so hard for custody of their two dogs that People for the Ethical Treatment of Animals (PETA) decided to get involved. PETA argued that the best interest of the couple's children was for them to keep the dogs, so canine custody should go to whomever has custody of the children.

In cases like this, it is difficult to judge which decision is the right one. Unfortunately, the courts do not view disputes over ownership of pets as they view custody fights involving chil-

dren. In the eyes of the law, pets are items of personal property and are divided as such in a divorce proceeding. In addition to fighting over ownership of the pet, couples also fight over the veterinary bills, what kinds of "visitation" rights are granted, and who pays for miscellaneous expenses.

In the event of a divorce, how can you ensure that you get to keep your dog and protect it from any anxiety a separation may cause?

Many times, the best solution is to determine custody and visitation privately so the courts do not get involved. I once had a case involving a cat where the judge threatened to put the cat in the middle of the room and custody would go to whichever spouse the cat ran toward. Facing this ultimatum, the couple came to a solution outside of court.

Unfortunately, some couples cannot work out their differences and leave the decision in the hands of the court. In these instances, a judge will take the following into consideration:

- Who owned the dog before the couple was married – Ownership before the marriage typically leads to ownership after the marriage.
- Who took care of the dog primarily – Believe it or not, you probably have to show that you care more about your dog than your spouse does. If you are the one who walks, feeds, cleans, and plays with your dog, then you should be the one who obtains custody.
- Who is the best person to care for the dog – If your spouse has a hectic travel and work schedule and you are home, you are in a better position to care for your dog.
- Who has primary custody of the children – If children are involved, custody of the dogs usually goes with custody of the children so no additional headache is caused.
- Prenuptial agreement – If you determined before the marriage who would get the dog in the event of a divorce, you just saved yourself a lot of time, money, and energy.

If you both really want to keep your dog, determine a way to include the dog as part of your share of a 50-50 split of assets in the event of a divorce. It may take some negotiation and the sacrifice of some other assets, but it will be well worth it when you get to take your dog home with you.

Your dog is a member of your family and when the family is broken up, Fido's well-being needs to be taken into consideration as well.

Silvana D. Raso heads the family law practice at Englewood Cliffs, NJ-based Schapiro & McLaughlin, P.A. where she counsels clients in all areas of matrimonial and family law, including pet custody.