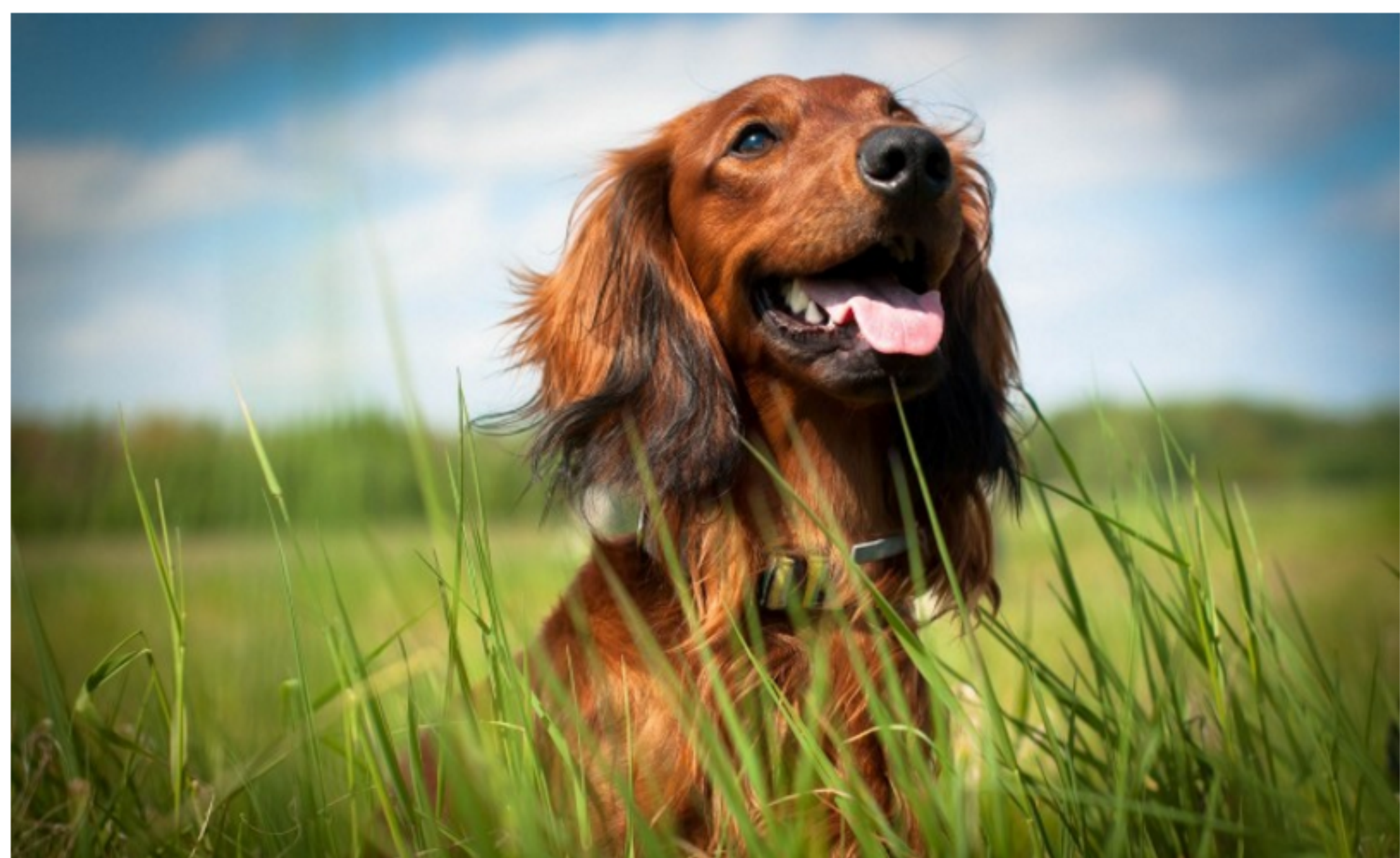


Divorce, Marriage

# Who gets the dog in a divorce?

Oct 22, 2015 By [Brette Sember](#)



When it comes to [pet custody](#), people fight like, well, cats and dogs.

In divorce proceedings, child custody is often one of the biggest issues, but pet custody is becoming almost as contentious. More than two-thirds of US households are home to a dog or cat, and with Americans spending more than [\\$60 billion a year](#) on their four-legged companions, it's clear that pets are important members of the family.

## Can you get custody of a pet?

The simple answer: no. Despite how we treat them, pets are not legally children. [Pets are personal property](#) and technically should be divided up along with all the other marital property in a divorce. This means they are assigned a monetary value and added to the pot of marital assets to be split. If you rescued your pet from a shelter, you might be horrified to see Fido or Fluffy valued at something quite low, like \$30, if assigned a value at all. Pure breeds and show dogs fetch higher values, of course, but still they are considered a monetary asset whose value depends solely on what they sell for.

## Judges are seeing the light

There is a growing realization that while the law views pets as property, people feel very differently. "While pets are still considered property in most jurisdictions, there is definitely a trend toward treating pets as more than mere objects," says attorney [Jennifer Brandt](#) of Cozen O'Connell.

Particularly for couples with no children or grown children, pets are often cherished, pampered, and loved as if they were offspring. It doesn't sit right with most people that a pet should be treated like a couch in a divorce.

The good news is a lot of judges (who themselves are likely pet owners) are starting to agree. While it's unlikely that a pet custody law will be passed any time soon, judges have the legal authority to make decisions about pets that take more into account than just their value.

Increasingly, ownership arrangements are being considered in terms of what would be best for the animal (similar to the best-interest analysis used for children). [In a case in Alaska](#), for example, a dog was awarded to one spouse because the other had aggressive dogs that threatened the animal. Judges are also setting up shared ownership, essentially pet visitation.

## How to win custody of your pet

So what do you do if you want custody of your pet? The first hurdle is getting the judge to treat the decision with some attention, instead of just lumping the pet in with the rest of your property division. [Your attorney](#) can prepare a motion asking the court to hold a brief hearing on the ownership question, during which you can present evidence.

A pet custody case will have many of the same elements as a child custody case. You'll want to show that you are the owner who has provided the primary care for the pet, walking or playing with the animal, feeding and grooming it, taking it to the vet, and managing its home health care. And it's a definite plus if you can prove that you took the pet to classes or training.

You'll also want to show you comply with state and local laws about licensing, vaccinations, and restraints (i.e., leash laws). Evidence about who is better suited to care for the animal moving forward is also important. It helps to show that you are more financially stable and have the income available to support the pet.

As with child custody, poor behavior on the part of your soon-to-be ex can bolster your case. If possible, you'll want to show that he or she didn't spend much time with the pet or contribute to its care, and of course you'll want to cite any outright abuse or cruelty toward the animal.

## Kids and pets go together

If you have minor children, the child custody and pet custody may be very similar. Judges are well aware of how attached children are to their pets, so there is a strong likelihood the judge will want to keep them together. In particular, if the children will be remaining in the marital home, keeping the pets there too can help stabilize things for the youngsters.

## Negotiate your own pet custody agreement

You and your ex can create a pet custody agreement on your own and have it incorporated into the divorce by the court so that it is enforceable. Work out how you will share time with your pet and who will be responsible for managing vet care. You can even agree to share costs, such as vet care, grooming, medications, and food.

Attorney Brandt recommends you think ahead, if possible. "The best way for parties to guarantee that their pets get the proper treatment in the event of divorce is to address their disposition in a prenuptial agreement," she says. "In this way, they can assure that the custody of their pets is set according to their desires, and they do not have to rely on a court to make that determination."

For more information on pet custody issues, try [Avvo's "Ask a Lawyer" page](#).

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