

BUSINESS INSIDER

Pet prenups are the hot new divorce trend

Erin Snodgrass Aug 26, 2024, 8:29 AM EDT



- **More and more couples are including pet provisions in their prenups, divorce attorneys say.**
- **Pet prenups can cover things like animal custody, financial arrangements, and even "petcations."**
- **Evolving attitudes toward American pets could be contributing to a rise in pet prenups.**

Fighting over Fido has never been easier.

More and more Americans are celebrating their impending nuptials by securing a prenup, a legal document that outlines how an engaged couple's assets would be split in the case of divorce.

And divorce lawyers are seeing an uptick in the inclusion of pet provisions in prenups, ensuring beloved animals are accounted for should the relationship go awry.

"Very often, I find people will fight more about a pet than over money," said Jacqueline Newman, a New York divorce attorney.

[Pet prenups](#) are a relatively new phenomenon in the marriage and end-of-marriage world, but for as long as people have been marrying and separating, they've been concerned about their precious "fur babies," Newman told Business Insider.

Some couples included pet provisions in their prenups as far back as the mid-aughts, but those early arrangements were rarely enforceable and often legally impractical, according to Erin Levine, a former divorce attorney and the founder of online divorce platform Hello Divorce.

Courts have long been accustomed to treating pets as property in divorce, deciding an animal's fate [alongside other assets](#), like homes and earnings.

These days, however, [changing state laws](#), evolving attitudes around animal ethics, and a pandemic spike in adoptions have led to an uptick in so-called pet prenups, several divorce attorneys and mediators told Business Insider.

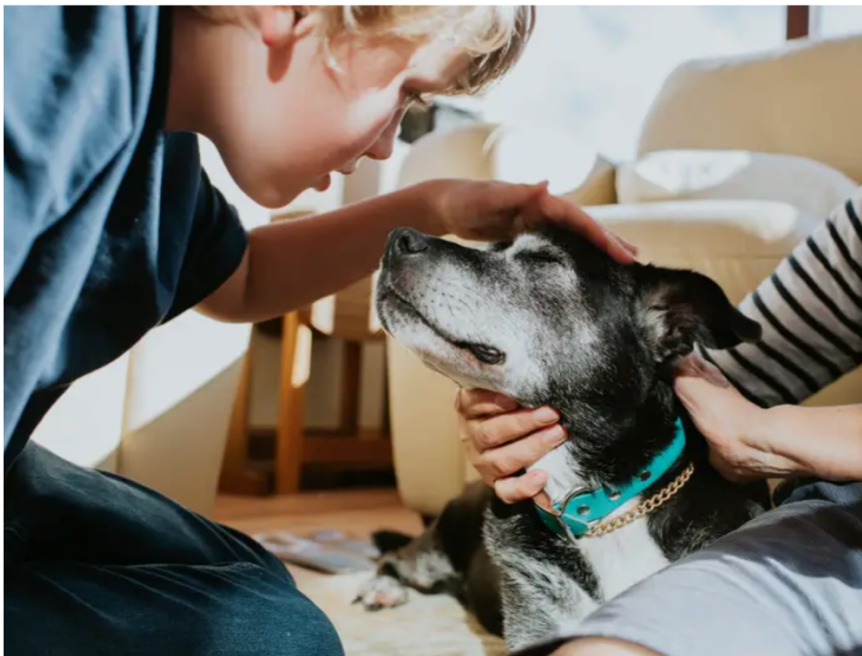
The history of pet prenups

The term "pet prenup" refers to any prenuptial agreement that includes a provision dealing with pets, legal experts said. But pet prenups only exist today thanks to years of divorcing couples fighting over pets.

In her early days practicing family law, Newman said she sometimes worked with divorcing couples who wanted to include pets in their [custody agreements](#) as they tried to figure out where the kids would go after a split.

As people started [getting married later in life](#), often forgoing children entirely, Newman said she began to see a rise in pet-exclusive divorce arrangements, in which couples would hash it out over *only* their shared animals.

Levine encountered her first "pet prenup" about a decade ago, she said. The millennial couple she was working with was considering combining their assets and had a shared dog they were certain would one day be [famous](#). As a result, the puppy parents wanted to make sure there were legal provisions in place for the pet's future earnings and career control should they split.



Changing state laws and evolving societal attitudes toward animals could be contributing to a rise in pet prenups, divorce attorneys said. Catherine Falls Commercial / Getty Images

Kristyn Carmichael, an Arizona family law attorney and mediator, said in comments to BI that pet prenups often designate outright ownership, i.e., Fido belonged to Partner A before the marriage, so Fido will live with Partner A after the marriage.

But many arrangements also allow for a more structured pet parenting plan, not dissimilar to a [custody agreement with kids](#) — known in the industry as a "co-pawrenting agreement," according to Levine.

The divorced couple could [share time with a pet equally](#), or an agreement might designate one partner as a pet's primary owner while offering the second partner "right of first refusal" should the first partner no longer be able to care for the pet, Carmichael said.

Many pet provisions also include [financial details](#) for the animal — known as "petimony" — such as vet bills, food and litter costs, and grooming, divorce experts said.

Without a pet provision included in a couple's prenup, the fight over shared animals can get nasty, Newman said. In most states, pets are still considered chattel or personal property, so a judge will typically decide where a pet goes post-divorce if the couple can't come to an agreement, divorce lawyers said. Similar to how a judge might decide custody of children, the court most often grants ownership to the pet's primary caretaker.

"Still, the last thing a judge wants to do is deal with pet custody issues," Levine said.

"And the last thing pet parents want to do is spend thousands on legal fees going to court."

The rise of pet prenups

Divorce attorneys who spoke to BI agreed that pet prenups have become increasingly popular in recent years. Out of nine divorce attorneys and mediators who discussed pet provisions with BI, eight said they had some firsthand experience with them.

Meg McKinney, a Maryland family law attorney, estimated that about one-fourth of prenuptial agreements these days include some sort of pet provision, while New York family law attorney Yonatan Levoritz put the number closer to 20%.



Divorce attorneys say pet provisions in prenups have been on the rise in recent years. Getty Images

According to a 2024 [survey](#) of 1,000 pet owners conducted by Rover, more than 80% of pet parents are in favor of proactively arranging their pet's future ahead of any potential split. That's no surprise for a population that considers their pets as much a part of the family as other humans, according to a 2023 Pew Research [survey](#).

Still, only about 28% of pet parents actually *have* an official pet agreement of any sort, according to the Rover survey, and divorce experts said animal provisions are still more uncommon than not.

As a result, some divorce mediators are encouraging those without a pet prenup to think about pets early in the splitting process.

Levine's platform, Hello Divorce, aims to automate many of the legal and financial logistics associated with divorce. In recent years, Levine said she's implemented specific questions about pets into the website's welcome questionnaire.

As a result, Levine said, she's seen several unorthodox evolutions of the typical pet provisions, including fights over an animal's Instagram account, negotiations over "petcations," and outlines for a pet's funeral arrangements.

The factors spurring pet prenups

Shifting legal and cultural attitudes toward pets could be contributing to the rise in pet prenups, divorce experts said.

While pets are still considered personal property in most of the country, some states have started considering their "best interest" by applying the same standard used in child custody cases to animals, said New York family law attorney Atty Bruggemann. Alaska, California, Illinois, Maine, New Hampshire, New York, and Washington, DC, all have such laws in place, according to Hello Divorce.

On the one hand, these sorts of pro-animal laws could be encouraging people to take a more proactive approach to thinking about their pets in a custodial way, divorce attorneys said. But the "best interest" stipulations also make pet provisions in prenups slightly less cut-and-dried, with a judge also having to consider which partner is best equipped to give the animal a good life, said Leigh Kahn, a New York attorney who regularly draws up prenups.

"Courts are starting to take this very seriously. They're not treating animals just as objects anymore," Newman said. "They're living beings with feelings and needs."



Many pet owners consider their animals part of the family. Marina Cavusoglu/Getty Images

Pets aren't just showing up in prenups, either. The Wall Street Journal reported earlier this month that people increasingly include their animals in their wills.

The rise of more pet-friendly laws falls in line with America's growing obsession with our pets. Animal ownership is on the rise, especially in the aftermath of the pandemic, during which millions of households adopted a new animal during the drudge of social distancing. Joe and Cheryl Dillon, divorce mediators at Equitable Mediation, said in comments to BI that the pandemic pet boom was a contributing factor to the uptick in pet prenups.

"Pets are really very often a couple's first baby," Newman said. "And if you have teenagers, you may like your pet way better than you like your kids."