



# What you need to know about family pets and the Family Law Act

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It's not easy when a family is separating. A common issue (and one that can be particularly difficult) is “What happens to the family pet?”. Previously, if a separating couple couldn't agree, only the BC Supreme Court could decide which partner would have the pet.

However, on January 15, 2024, changes to BC's *Family Law Act* and the *Provincial Court Family Rules* allowed both the Provincial Court and the Supreme Court of BC to make orders about ownership and possession of a family's animal companion when a marriage ends.

## What are companion animals?

Under the legislation a “companion animal” is defined as an animal that is “kept primarily for the purpose of companionship”. Animals that are not companion animals include guide and service dogs, animals kept as part of a business, and animals that are kept for agricultural purposes.

### [Guide Dog and Service Dog Act](#)

## What if my partner and I were not married but we are separating and have a companion animal?

The *Family Law Act* applies to spouses in a “marriage-like relationship” in certain circumstances. Knowing whether your relationship is covered by the Act can be complicated so it's a good idea to talk to a lawyer about it.

If the *Family Law Act* doesn't apply to your relationship, you may be able to take the issue to the Civil Resolution Tribunal (CRT), the Provincial Court's Small Claims Court, or the Supreme Court of British Columbia. Where to bring your case usually depends on the dollar value of the claim.

- CRT usually deals with claims for up to \$5,000
- Small Claims Court usually deals with claims from \$5001 to \$35,000
- BC Supreme Court usually deals with claims over \$35,000

[Family Law Act](#), section 3

## **What can a Provincial Court judge order?**

When spouses can't agree about their family's companion animal, a judge can order that one spouse will have sole ownership or possession of it. However, the law does not allow a judge to order that spouses share possession or own the animal jointly.

When deciding which spouse gets a companion animal a judge must consider:

- the circumstances in which the animal was acquired
- the extent to which each spouse cared for the animal
- any history of family violence
- the risk of family violence
- a spouse's cruelty, or threat of cruelty, toward an animal
- the relationship that a child has with the animal
- the willingness and ability of each spouse to care for the basic needs of the animal
- any other circumstances the court considers relevant

## **Can an order about a companion animal be enforced?**

What happens if a judge grants sole ownership of a companion animal to one spouse, but the other spouse has the animal and won't return it?

The spouse who has been granted sole ownership can apply to the Court to enforce the order.

## **Do you need to have a court order setting out who gets the companion animal?**



Definitely not! You and your spouse don't need a court order if you can agree about where your pet will live. Agreeing (on your own or with the help of a mediator) gives you more control and flexibility than if a judge decides the matter.

You can agree to give possession or ownership to one spouse. But you can also agree to shared possession or joint ownership of your pet, even though a judge can't order that.

If problems arise after you've made a written agreement, you may be able to ask a court to set the agreement aside or replace it with a court order. If this happens to you, talk to a lawyer to find out what steps you can take.

## How can you get legal advice?

[Finding a lawyer or getting legal advice](#)

## More information

- [Family Law and Companion Animals in BC - printable BC government guide to possession and ownership of companion animals after separation or divorce](#)
- [Family Court Forms](#) - Several forms are being updated to refer to companion animals. See the [amended forms](#) in the Order-in-Council. They will soon be updated on the Family Court Forms web page.
- [Resources for Family Court](#)

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