

HOUSE BILL REPORT

HB 2046

As Reported by House Committee On:
Judiciary

Title: An act relating to validating trusts created for the benefit of nonhuman animals.

Brief Description: Validating trusts created for the benefit of nonhuman animals.

Sponsors: Representatives Haigh, Lantz, Sump, Reardon, Dunn and Barlean.

Brief History:

Committee Activity:

Judiciary: 2/23/01, 2/27/01 [DPS].

Brief Summary of Substitute Bill

- Makes trusts for animals legally valid and enforceable.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Dickerson, Esser, Lovick and McDermott.

Minority Report: Do not pass. Signed by 3 members: Representatives Lambert, Republican Vice Chair; Boldt and Casada.

Staff: Trudes Hutcheson (786-7384).

Background:

Part of estate planning may include creating a trust. A trust is an agreement under which money or other assets are held by one person for the benefit of another. The trustor is the person creating the trust. The trustee is the person or organization that holds legal title to the trust property and is responsible for managing and administering the trust assets. The beneficiary is the person who is to receive the benefits of the trust. Any person or entity may be a beneficiary, including individuals, corporations, or associations.

A trustee is required to act according to the express terms of the trust instrument and must administer the trust property for the designated beneficiaries. The trustee may not use the property for the trustee's benefit. Unless the trust instrument states otherwise, a trustee generally has the power to acquire, invest, exchange, sell, convey, control, and manage trust property.

There is no specified time during which a trust must remain in effect. However, Washington law will not allow a private trust to continue longer than 21 years after the death of a person living at the time the trust was established.

Under common law, trusts for animals are not recognized as valid trusts. However, the Uniform Probate Code includes provisions that validate trusts for animals, and some states have enacted statutes recognizing trusts for animals.

Summary of Substitute Bill:

A new chapter under the probate and trust title is created to legally recognize trusts for the care of one or more animals. Animal— means an animal with vertebrae. Unless otherwise provided, the trust terminates when no animal that is designated as a beneficiary remains living.

No portion of the principal or income of the trust may be converted to the use of the trustee or to any use other than for the trust's purpose, or for the benefit of the designated animal, except as expressly provided for in the trust instrument, by court order, or except as may be necessary to pay reasonable compensation and reimbursement to the trustee.

Upon termination of the trust, the trustee must transfer the remaining property in the following order: (a) as directed in the instrument; (b) if the trust was created in a nonresiduary clause in the trustor's will and the will does not direct otherwise, under the residuary clause in the will; and (c) if no taker is produced, to the trustor's heirs.

The intended use of the trust may be enforced by a person designated for that purpose in the trust, by the person having custody of the animal, or by a person appointed by a court upon application to the court for appointment. A person with an interest in the welfare of the animal may petition the court to appoint or remove a person designated to enforce the trust. The court may do that which is necessary to carry out the intent of the trust.

No filing, report, registration, or accounting shall be required unless ordered by the court or the trust instrument.

Unless expressly provided otherwise, the trustee has all the powers and duties conferred on a trustee administering a trust for a human beneficiary.

Substitute Bill Compared to Original Bill:

The substitute bill changes the definition of "animal" from "nonhuman animal" to "animal with vertebrae." The substitute bill also removes the authorization for a court to appoint a guardian ad litem to protect the interest of the animal.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: The bill contains several effective dates. Please refer to the bill.

Testimony For: This bill addresses a need that is out there. When a person's pet has been abused, it can be traumatic for the person. Clients want to leave a portion of their property to care for their pets. Under current law, these types of trusts are not enforceable. Like trustees for trusts benefitting people, the trustees for pet trusts are entitled to a trustee fee. The Uniform Probate Code has adopted similar language recognizing such trusts.

Testimony Against: None.

Testified: Representative Haigh, prime sponsor; Wendy Goffe, Washington State Bar Association; and Gordon Walgren, Federation of Animal Control Agencies and Humane Society.