

# Family Law and Companion Animals in British Columbia

POSSESSION AND OWNERSHIP OF A **COMPANION ANIMAL** AFTER A SEPARATION OR DIVORCE



When it comes to family law matters, it's important to understand how the law treats companion animals. These laws came into force on January 15, 2024 with changes to B.C.'s *Family Law Act*.

## Understanding companion animals

Section 1 of the *Family Law Act* defines a companion animal as an animal that is kept primarily for companionship. More commonly, we refer to companion animals as "pets."

A companion animal is not a guide dog or service dog, nor an animal kept as part of a business or for agricultural purposes.

Under the law, a companion animal is property, but it's treated differently than other property (like furniture) when it comes to decisions about possession and ownership. A companion animal is more than just a pet, it's a valued member of the family.

## Does the Family Law Act (FLA) apply to me?

The *Family Law Act* can be used by separating or divorcing spouses to help resolve disputes about property division, including ownership and possession of a companion animal.

You are a spouse under the Act if you were:

- ✔ legally married, or
- ✔ unmarried but lived together in a marriage-like relationship for two or more years.

People who are not spouses may be able to resolve a dispute about a companion animal by mutual agreement or by going to the Civil Resolution Tribunal.





## Agreements about companion animals

### FAMILY LAW ACT SECTION 92

Separating or divorcing spouses can make their own agreement about the possession and ownership of a companion animal. The agreement may include that the spouses:

- ✔ jointly own a companion animal;
- ✔ share possession of a companion animal; or,
- ✔ give exclusive ownership or possession of a companion animal to one of the spouses.

For more information about reaching agreement, including who can help you, visit: [www.gov.bc.ca/ReachingAgreement](http://www.gov.bc.ca/ReachingAgreement)

## Going to court

### FAMILY LAW ACT SECTION 97

If an agreement cannot be reached, a spouse can ask the court to decide who will have possession and ownership of a companion animal.

### FACTORS CONSIDERED BY THE COURT

In determining whether to make an order, the court must consider the following factors:

- ✔ the circumstances in which the companion animal was acquired;
- ✔ the extent to which each spouse cared for the companion animal;
- ✔ any history of family violence;
- ✔ the risk of family violence;
- ✔ any cruelty or threat of cruelty toward the animal by either spouse;
- ✔ the relationship between a child and the companion animal;
- ✔ the willingness and ability of each spouse to meet the basic needs of the companion animal; and
- ✔ any other circumstances the court deems relevant.

### LIMITATIONS ON COURT ORDERS

The court can only make an order for ownership and possession of a companion animal by one spouse.

The court cannot declare that spouses jointly own the companion animal or require spouses to share possession of the companion animal.

### APPLYING FOR A COURT ORDER

To apply for a property division order about a companion animal in Provincial Court or Supreme Court, start by visiting: [www.gov.bc.ca/GoingtoCourt](http://www.gov.bc.ca/GoingtoCourt)

**Note:** *This guide provides general information and is not a substitute for legal advice tailored to your specific situation. Consult with a legal professional for advice related to your circumstance.*

