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## Has domestic relations gone to the dogs?

**A** new law that took effect Monday allows either party in a divorce to petition for the possession of and responsibility for a companion animal.

Public Act 100-422 amended the Illinois Marriage and Dissolution of Marriage Act with man's best friend in mind. Sections 452, 501, 502 and 503 are getting a wet-nose lift by giving divorcing couples the opportunity to duel it out for custody of all their furry, scaly and otherwise four-legged friends.

Most notably, Section 501 provides for temporary relief for sole or joint possession of and responsibility for a companion animal (service dogs need not apply), whereas Section 503 treats pets less like property and more like a member of the family.

In fact, Section 503 directs the court to take the "well-being of the companion animal" into consideration when allocating sole or joint ownership during the finalization of the divorce.

Under the old statute, courts treated Fluffy the same way they treated flatware: Pets were yet another piece of personal property subject to division, no strings — or emotions — attached.

Though still treated as "assets" subject to property division, the statute now speaks in terms of "ownership" and "responsibilities," taking a more personalized approach to who gets the pet and why.

As is the case with every amendment to the IMDMA, it's important to examine the varying interests at play and the overall



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effect this amendment will have on divorce in the new year.

Whereas before attorneys could do little for clients when it came to how pets were divided in court, the same limitations no longer apply.

Individuals with grown children, or no children, who rely on their pets for companionship can now go to court to make a case for why they're the better "dog mom" or "cat dad." And, in cases where both parties agree, Fido doesn't have to choose one parent or the other — ownership and responsibilities can be split, just as they are for human children counterparts.

Courts will examine a lot of the same factors that they do with human children as well. If you were the person scrubbing the fish tank, installing a new exercise wheel for your hamster or driving through the Starbucks line for "puppuccinos" with your dog riding shotgun, chances are you're in a good position for sole custody considerations.

After all, the person who does the day-to-day tasks for the pet — including feeding, purchases and

vaccinations — is likely to have a stronger argument for custody.

In contrast, there are several problems inherent in giving the court the power and responsibility to determine custody arrangements for pets.

The new law adds a layer of complication in cases where finances could have hypothetically been the only concern, if there are no children. After all, not having children generally simplifies a case, but with these new provisions and determined pet owners who want to fight for custody, litigation and heated disputes loom.

Most notable is the fact that domestic relations judges already do not appreciate getting involved in personal property division when they can avoid doing so.

Considering "Dr. Dolittle" is but a movie, how is a judge to determine what's in the best interest of a pet when pets can't talk? It is nothing more than a "he said, she said" situation and since we aren't yet to the point of appointing guardians ad litem for gerbils, it's difficult to say how each judge will implement the new law.

And no, it's not possible to substitute out a judge for disliking your cat. (Trust us).

With the start of the new year, pet custody is officially a concern in Illinois divorce. It is yet to be seen how significant of an impact the change will have. However, there is always reason for concern when yet another issue is put on the table for negotiation, settlement or litigation.

Let's just hope the new law's bark is worse than its bite.