A review of early English cases in which courts had to consider the validity of trusts left for the care of animals reveals that the English courts reviewed such trusts favorably and upheld them. Some early American jurisdictions felt differently and refused to validate such trusts on the grounds they were for the benefit and care of personal property. Thus, because animals are personal property, these courts refused to uphold the trust. But not all American courts have felt that way.

In the earliest recorded case in which this issue was considered, Willett v Willett (247 SW 39; Kentucky Court of Appeals, 1923), the court upheld a provision in the decedent's will that provided $1,000 be used for the support of his dog. The lower court said this provision in the will could not be upheld, because it was for the maintenance of personal property, namely a dog. The appeals court held that the provision could be upheld, saying the gift was not directly to the dog but was for its maintenance and care. The court found that this was for a humane purpose and therefore could be upheld under Kentucky law even though a specific trustee was not named.

In Re Hackett Estate 30 Pennsylvania Fiduciary Reporter 237 (1979), the testator's will provided that $5,000 be left to a named veterinarian for care of the testator's animals as long as they lived. The court said that this did not create an enforceable trust in view of the rule against perpetuities, which states gifts cannot be made that would be payable after “lives in being and 21 years.” However, since the veterinarian agreed to accept the money and abide by the terms of the will providing for care of the animals, the court held against other beneficiaries who had challenged this provision. The court said the will did not violate the rule against perpetuities and, therefore, the gift was approved. It further said that the veterinarian had the option of permitting the current possessor of the animals to continue their care or to have the $5,000 go to an animal hospital that would care for the animals as long as they lived.

In view of the current interest in animal rights and the regard animals have as a special kind of property capable of sustaining actions for emotional distress and loss of companionship, it is not surprising many states have, by statute, provided that trusts for the care of animals are valid and enforceable. Some of the states that have adopted such a law are Colorado (their law covers animals in gestation), Alaska, Michigan, North Carolina, Arizona, Utah, New Mexico, New York, Montana, and New Jersey.

Typical of these laws is the one adopted by New Jersey in 2001. Basically it provides that:

- Such trusts are valid and can be enforced by a person named in the trust or, if absent, designated by the court.
- No part of the trust or its income is to be used for the benefit of the trustee or any other person, but is for the sole benefit of the animals.
- The court may reduce the amount designated if it determines it is more than necessary for the proper care and maintenance of the animals.
- The court may appoint a trustee if one is not named.
- Any part of the trust not needed for care and maintenance of the animals will be distributed as directed in the trust or if there are no directions, will go to the estate of the creator.
- The trust terminates when there is no living animal covered by its provisions.

In some states the validity of a gift for the care of animals is recognized but means for enforcement are not provided; thus, whether the provisions for maintenance of the animals is carried out depends upon the willingness of the executor and beneficiaries to honor the provision and carry out the will of the testator or testatrix. California, Missouri, and Tennessee have such statutes.