

WRIGHT V BERGER: CAN THE COURT GRANT SHARED CARE OF A COMPANION ANIMAL UNDER THE 2025 FAMILY LAW ACT AMENDMENTS?

MERI OAKWOOD*

Companion animals play an important role in Australian households. Consequently, when couples separate, ownership is often in dispute. Prior to 2025, when separated couples asked a family court to determine ownership, courts were limited by a lack of specific jurisdiction. Pets were not mentioned in the Family Law Act 1975 (Cth) ('Family Law Act'). Companion animals were merely viewed as personal property and a common approach by the courts was to consider them as part of a property adjustment, using the same indicia as for other personal property. In 2025, the Family Law Act was amended with the aim of clarifying and codifying property disputes between separated married and de facto couples. The 2025 amendments recognised that companion animals have a special relationship with humans; in particular, they are often a significant emotional support for victims of domestic and family violence and, because of this, are often targeted by perpetrators of coercive control. Companion animals are now prescribed under the Family Law Act as a specific type of property to which a set of considerations are to be taken into account by a court when determining what order, if any, should be made in respect of their ownership. Family violence is now a relevant consideration. The 2025 amendments provide three options in relation to ownership of companion animals: owned by one party, transferred to a third person, or sold. In Wright v Berger [2025] FedCFamC2F 1315, the extent of court discretion in relation to companion animal ownership was tested. The Court confirmed that under the current Family Law Act, shared care of a companion animal cannot be ordered. The new provisions give finality to the parties, disallowing any ongoing control and surveillance by a perpetrator of family violence.

I INTRODUCTION

Many Australians have a close relationship with at least one companion animal. In March 2025, a national survey of Australian households and their pets

* Associate Lecturer, Faculty of Business, Law and Arts, Southern Cross University.

revealed that nearly half (49%) of Australian households own at least one dog, equating to an estimated 7.4 million dogs nationwide.¹ Nearly 34% of Australian households have at least one cat.² Families with children under 18 are far more likely to be pet owners than couples without children.³ What happens to these companion animals when couples separate but are unable to agree on which party the animal will live with? How does the court approach a dispute about where a companion animal should live?

The general definition of ‘companion animal’ is ‘a domestic animal, as a cat, dog, etc, kept primarily for companionship’.⁴ In Australia, there is no uniform legal definition of this term.⁵ In the *Companion Animals Act 1998* (NSW), ‘companion animal’ is defined as a dog, a cat or any other animal that is prescribed by the regulations as a companion animal.⁶ Dogs are the focus of this article because they are the most popular pet in Australian households and, consequently, Australian family courts are most often asked to allocate their ownership after separation or divorce of couples.⁷ These types of court matters are referred to by family and animal law scholars as ‘pet custody’ cases.⁸ The ensuing discussion, however, applies equally to other companion animal species including domestic cats.⁹

In June 2025, the new provisions of the *Family Law Act 1975* (Cth) (*‘Family Law Act’*) commenced, clarifying and codifying property disputes between separated married and de facto couples.¹⁰ Prior to these amendments, companion

1 SEC Newgate Research and Animal Medicines Australia, *Pets in Australia: A National Survey of Pets and People* (Report, 2025) 6, 9.

2 Ibid 6.

3 Ibid 8.

4 *Macquarie Dictionary* (9th ed, 2023) ‘companion animal’.

5 Deborah Cao, *Animal Law in Australia* (Lawbook, 3rd ed, 2023) 220.

6 *Companion Animals Act 1998* (NSW) s 5 (definition of ‘companion animal’). This section contains a note that states: ‘The fact that an animal is not strictly a “companion” does not prevent it being a companion animal for the purposes of this Act. All dogs are treated as companion animals, even working dogs on rural properties, guard dogs, police dogs and corrective services dogs.’ This differs from the definition of companion animals inserted into the *Family Law Act 1975* (Cth) (*‘Family Law Act’*) pursuant to the 2025 amendments, discussed later in this article.

7 The following cases included disputes about ownership and/or time spent with a dog or dogs: *Jarvis v Weston* [2007] FamCA 1339 (*‘Jarvis’*); *Benford v Benford* [2012] FMCAfam 8 (*‘Benford’*); *Downey v Beale* [2017] FCCA 316 (*‘Downey’*); *Gaynor v Tseh* [2018] FamCA 164 (*‘Gaynor’*); *Davenport v Davenport* [No 2] (2020) 62 Fam LR 222 (*‘Davenport’*); *Parkhill v Rayne* [2020] FCCA 1989; *Barrese v Arrico* [2022] FedCFamC2F 1023; *Grunseth v Wighton* [2022] FedCFamC1A 132 (*‘Grunseth’*); *Castaneda v Castaneda* [2023] FedCFamC1F 1017 (*‘Castaneda’*); *Arena v Arena* [No 4] [2024] FedCFamC1F 22 (*‘Arena’*); *Rowlinson v Bradford* [No 2] [2024] FedCFamC2F 1241 (*‘Rowlinson’*). *Day v Jacobsen* [2022] FedCFamC2F 1163 (*‘Day’*) included a dispute about cats, as well as dogs and other issues.

8 Tony Bogdanoski, ‘The Marriage of Family Law and Animal Rights: How Should Australian Family Law Approach the Rise of “Pet Custody” Disputes?’ (2006) 31(4) *Alternative Law Journal* 216, 216 <<https://doi.org/10.1177/1037969X0603100407>>; Adam Jardine, Marilyn Bromberg and Nicholas Cardaci, ‘No More Fighting like Cats and Dogs: It’s Time for a New Pet Custody Model in Australia’ (2022) 19(1) *Canberra Law Review* 86, 86, 90, 108; Esther Erlings, ‘Should Every Pet-Ownning Couple Have a “Pet-Nup” for Their Property (Pet)?’ (2026) 37(3) *Australian Journal of Family Law* 264, 265.

9 *Downey* (n 7) n 1 (Judge Harman); *Gaynor* (n 7) [8] (Cronin J); *Davenport* (n 7) 229 [44] (Judge Tonkin); *Grunseth* (n 7) [63] (Alstergren CJ, Aldridge and Brash JJ); *Day* (n 7) [54] (Judge Newbrun).

10 Family Law Amendment Bill 2024 (Cth) sch 1 (*‘Family Law Amendment Bill’*). Note that in Western Australia, the 2025 family law amendments only apply to property cases concerning married parties. De

animals such as dogs were viewed simply as personal property (chattels) and assets of a relationship.¹¹ The 2025 amendments recognised that humans have a different relationship with companion animals than with other forms of personal property.¹² Companion animals often play an important role in humans' lives by providing non-judgemental emotional support.¹³ As a result, many humans are strongly bonded to them, viewing them as part of their family.¹⁴ This emotional bond is often intensified for victim-survivors of domestic and family violence.¹⁵

Unfortunately, perpetrators of coercive control often target a companion animal for which a victim-survivor has the most affection with physical abuse, threats of death, deliberate neglect and/or by causing death.¹⁶ In this way, perpetrators leverage the victim-survivor's emotional connection with their pet, and their desire to protect them, to exert control over other areas of the victim-survivor's life.¹⁷ Victim-survivors of domestic violence often delay leaving violent relationships because they are concerned about the wellbeing and safety of their companion animal.¹⁸ Targeting a companion animal is one of an array of perpetrator behaviours that cause entrapment of women in coercively controlling relationships.

The *National Principles to Address Coercive Control in Family and Domestic Violence* recognised animal abuse as a form of coercive control in domestic and family violence.¹⁹ The 2025 amendments responded to this (amongst other matters) by providing that family violence is now a relevant consideration when determining the ownership of a companion animal as part of a property division.²⁰

facto property cases are heard under state legislation, and this has not yet been amended to mirror the changes at the federal level: see *Family Law Act* (n 6) ss 90RA(1)–(2); *Family Court Act 1997* (WA) pt 5A.

11 *Benford* (n 7) [1] (Roberts FM); *Downey* (n 7) [14] (Judge Harman); *Arena* (n 7) [57] (Curran J).

12 Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) 31.

13 Mikayla Budinski and Luke Gahan, 'What Is Family? Australian Views on What Makes a Family' (Research Paper, Australian Institute of Family Studies, November 2023) 14.

14 *Ibid*; Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) 31.

15 Catherine M Tiplady, Deborah B Walsh and Clive JC Phillips, 'The Ongoing Impact of Domestic Violence on Animal Welfare' (2015) 4(2) *Animal Studies Journal* 116, 118; Nik Taylor, Heather Fraser and Damien W Riggs, 'Companion-Animal-Inclusive Domestic Violence Practice: Implications for Service Delivery and Social Work' (2020) 32(4) *Aotearoa New Zealand Social Work* 26, 29 <<https://doi.org/10.11157/anzswj-vol32iss4id791>>; Kylie Butler and Jasmine B MacDonald, 'Violence against Family Animals in the Context of Intimate Partner Violence' (Policy and Practice Paper, Australian Institute of Family Studies, April 2024) 7.

16 Catherine M Tiplady, Deborah B Walsh and Clive JC Phillips, "'The Animals Are All I Have': Domestic Violence, Companion Animals, and Veterinarians' (2018) 26(5) *Society and Animals* 490, 492, 498, 501, 502 <<https://doi.org/10.1163/15685306-12341464>> ('The Animals Are All I Have'); Butler and MacDonald (n 15) 5, 6.

17 Cheryl Travers et al, 'Cruelty towards the Family Pet: A Survey of Women Experiencing Domestic Violence on the Central Coast, New South Wales' (2009) 191(7) *Medical Journal of Australia* 409, 409 <<https://doi.org/10.5694/j.1326-5377.2009.tb02855.x>>; Tiplady, Walsh and Phillips, 'The Animals Are All I Have' (n 16) 510; Butler and MacDonald (n 15) 6.

18 Tiplady, Walsh and Phillips, 'The Animals Are All I Have' (n 16) 505, 507.

19 Attorney-General's Department (Cth), *National Principles to Address Coercive Control in Family and Domestic Violence* (National Principles, 2023) 13. See also Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) 13.

20 *Family Law Act* (n 6) ss 79(7)(d), 90SM(7)(d).

The 2025 amendments were intended to support victim-survivors of family violence where family pets have been used as a tool by perpetrators of coercive control.²¹

Under the 2025 amendments to the *Family Law Act*, companion animals are still considered personal property. However, they are now treated as a special kind of property, recognising the close relationship between many humans and their companion animals. This provides the power for the court to make decisions that are protective of individual companion animals in certain circumstances. The new provisions have added a framework for the court to follow when dealing with disputes about the ownership of companion animals.²² The 2025 amendments provide three options in relation to ownership of companion animals: that they be owned by one party, transferred to a third person or sold.²³

The recent case of *Wright v Berger* [2025] FedCFamC2F 1315 (*‘Wright’*) is the first case since the 2025 *Family Law Act* amendments to consider the extent of court discretion where one party seeks shared care of a companion animal. Is it possible for ancillary orders to be made allowing shared ‘use’ of an animal? Does the court have any discretion to order shared care of a companion animal under these new provisions similar to a child spending time with each parent?

II COURT APPROACH PRIOR TO THE 2025 AMENDMENTS

In family law, prior to the new provisions, there was no legislative framework for settling disputes about animals. Courts viewed pets as personal property, similar to other possessions such as cars, furniture and electronic equipment.²⁴ In *Gaynor v Tseh*, Cronin J stated:

The *Family Law Act* 1975 (Cth) ... makes no reference to pets. It was conceded by the applicant that a dog does not fit within any other category of property than a chattel. Hard as that may be for the applicant, and perhaps other dog lovers to accept, the law here concerns the alteration of interests in property.²⁵

The courts’ approach to resolving disputes about companion animals where couples had separated was often in the context of making orders about the division of property between parties; which party purchased it, whether it was a gift, whose name was on the ownership documents, who had possession and who had paid for most of the related expenses.²⁶ In *Downey v Beale*, Judge Harman observed that although the chattel in dispute, a dog, was actually sentient, his decision was constrained by the law of that time such that the dog was ‘a chattel and his

21 Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) 13.

22 Ibid 32.

23 *Family Law Act* (n 6) ss 79(6)(a)–(b), 90SM(6)(a)–(b).

24 Meri Oakwood, ‘Family Law Changes Will Better Protect Domestic Violence Victims – and Their Pets’, *The Conversation* (online, 11 June 2025) <<https://theconversation.com/family-law-changes-will-better-protect-domestic-violence-victims-and-their-pets-258189>>.

25 *Gaynor* (n 7) [8].

26 Taylor Jobling and Courtney Dolphin, ‘Are Pets Truly Members of the Family? New Provisions Relating to “Companion Animals” in the *Family Law Act* 1975 (Cth)’ (2026) 51(1) *Alternative Law Journal* 41, 43 <<https://doi.org/10.1177/1037969X261415974>>; *Downey* (n 7) [10]–[11] (Judge Harman); *Day* (n 7) [54] (Judge Newbrun); *Grunseth* (n 7) [63] (Alstergren CJ, Aldridge and Brasch JJ).

ownership [was] to be determined by the Court as an issue of ownership of property'.²⁷ In *Grunseth v Wighton*, the Court, in considering the ownership of family dogs, held: 'As much as it will pain pet lovers, animals are property and are to be treated as such.'²⁸

Some family law cases concerning disputes about dogs were decided taking into account, at least partially, the 'best interests' of a child or children. In *Jarvis v Weston*, where a child of the relationship had a connection with a dog, Moore J ordered that the dog live with the party the child spent the most time with, despite expressing doubt about the Court's jurisdiction to make orders in relation to pets.²⁹ His Honour stated that '[t]he boy is attached to the dog. The dog is to go with the boy' as this was, in his view, in the best interests of the child.³⁰ In *Castaneda v Castaneda*, Altobelli J recognised that the family dogs were important to the children and ordered that the dogs were to stay with the mother in circumstances where the children would live with the mother and spend time with the father.³¹ In *Rowlinson v Bradford [No 2]*, Judge Betts observed that

transferring the dog to the Husband seems somewhat cruel to the children and to the dog, who would be thereby forced it to 'lose' its canine companion. The dog may be property at law but it is not a piece of furniture. It is a living being and should be treated with compassion ...³²

In other family law cases where there were disputes about the ownership of companion animals, no orders were made, with courts often emphasising a lack of jurisdiction to make specific orders relating to pets.³³ In *Gaynor v Tseh*, the Court declined to make an order in relation to the dog, leaving it in the possession of the wife.³⁴ In *Davenport v Davenport [No 2]* (2020) 62 Fam LR 222, a dispute about a dog, the husband sought shared care. Judge Tonkin found that:

The Court is aware that for many people pets are regarded as members of the family however there is no provision under the *Family Law Act* and no specific legislation that deals with issues such as the 'custody' of a pet whether that be a dog, cat, bird, lizard, fish or any of the wonderful creatures that we share the planet with that would empower a Court to make orders for shared custody of a pet.³⁵

The application for an order for shared care of a dog was dismissed due to a lack of jurisdiction.³⁶ This lack of jurisdiction to order shared care of a dog was also confirmed by Curran J in *Arena v Arena [No 4]*.³⁷

Prior to the 2025 amendments, a companion animal's wellbeing and/or safety could not be taken into account by the court as there was no specific framework for decisions relating to companion animals in the *Family Law Act*.³⁸ Some judges

27 *Downey* (n 7) [10], [14].

28 *Grunseth* (n 7) [63] (Alstergren CJ, Aldridge and Brasch JJ).

29 *Jarvis* (n 7) [20]–[22].

30 *Ibid* [22].

31 *Castaneda* (n 7) [178].

32 *Rowlinson* (n 7) [63].

33 *Jobling and Dolphin* (n 26) 43.

34 *Gaynor* (n 7) [13]–[14] (Cronin J).

35 *Davenport* (n 7) 229 [44] (emphasis in original).

36 *Ibid* 229 [45].

37 *Arena* (n 7) [9], [59].

38 For prior legal scholarship on pet 'custody' issues in Australia: see above n 8.

recognised that dogs are sentient beings and human–dog relationships are different to that of humans and non-living personal property, but their decisions were constrained by the provisions of the *Family Law Act* at that time.³⁹

III THE 2025 AMENDMENTS

In August 2024, the Family Law Amendment Bill 2024 (Cth) was introduced into the Australian Parliament.⁴⁰ One of the aims was to amend the *Family Law Act* to enable the court to control and manage the conduct of property proceedings, including addressing family violence.⁴¹ Further aims were to ‘provide clarity about how family pets are treated in property proceedings under Parts VIII and VIIIAB of the *Family Law Act*. These amendments will recognise the unique character of family pets as valued members of many Australian families.’⁴²

The *Family Law Amendment Act 2024* (Cth) came into effect on 10 June 2025. The new provisions of the *Family Law Act* include a definition of ‘companion animal’ as ‘an animal kept by the parties to a marriage or either of them, or the parties to a de facto relationship or either of them, primarily for the purpose of companionship’.⁴³ This is a broad definition that encompasses dogs and cats but may potentially also include other companion animals such as cockatiels, budgerigars and ferrets. There is no case law on the breadth of the definition yet.

In the *Family Law Act*, sections 79 and 90SM provide the framework for the alteration of property interests after the breakdown of a marriage and after the breakdown of a de facto relationship, respectively. Both sections include the recently introduced subsection (7):

In considering what order (if any) should be made under this section with respect to the ownership of property that is a companion animal, the court is to take into account the following considerations, so far as they are relevant:

- (a) the circumstances in which the companion animal was acquired;
- (b) who has ownership or possession of the companion animal;
- (c) the extent to which each party cared for, and paid for the maintenance of, the
- (d) companion animal;
- (e) any family violence to which one party has subjected or exposed the other party;
- (f) any history of actual or threatened cruelty or abuse by a party towards the
- (g) companion animal;
- (h) any attachment by a party, or a child of the marriage, to the companion animal;

39 See, eg, *Downey* (n 7) [11]; *Rowlinson* (n 7) [63].

40 Family Law Amendment Bill (n 10); Commonwealth, *Parliamentary Debates*, House of Representatives, 22 August 2024, 6095 (Mark Dreyfus).

41 Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) 6.

42 *Ibid* 31.

43 *Family Law Act* (n 6) s 4(1) (definition of ‘companion animal’). This definition expressly excludes assistance animals (within the meaning of the *Disability Discrimination Act 1992* (Cth)), and animals kept for agricultural purposes, laboratory tests or experiments or as part of a business.

- (i) the demonstrated ability of each party to care for and maintain the companion animal in the future, without support or involvement from the other party;
- (j) any other fact or circumstance which, in the opinion of the court, the justice of the case requires to be taken into account.⁴⁴

Section 79(6) of the *Family Law Act* now provides:

In property settlement proceedings, so far as they are with respect to property that is a companion animal, the court may make an order (including a consent order or an interim order):

- (a) that *only one party* to the marriage, or only one person who has been joined as a party to the proceedings, *is to have ownership* of the companion animal; or
- (ab) that the companion animal *be transferred to another person* who has consented to the transfer; or
- (b) that the companion animal *be sold*.

The court *may not make any other kind of order* under this section with respect to the ownership of the companion animal.⁴⁵

Section 90SM is worded identically except it covers de facto relationships.⁴⁶

IV *WRIGHT V BERGER*

When *Wright* came before the Federal Circuit and Family Court of Australia in Melbourne for the final hearing in August 2025,⁴⁷ the scope of the companion animal amendments of the *Family Law Act* had not yet been the subject of any judicial determination.⁴⁸

In this parenting and property case, the applicant father Mr Wright and the respondent mother Ms Berger had one child of the relationship, three years old.⁴⁹ They were in dispute about whether the family dog should spend time with the father.⁵⁰ In essence, the father was seeking shared care of the dog.

The parties had been in a relationship for about six years before separation in January 2023, with the mother applying for a Family Violence Intervention Order the same month.⁵¹ Under interim consent orders, the father was to spend supervised time with the child, and was required to complete a Men's Behavioural Change Program to remove the supervision condition.⁵²

In June 2023, the parties recommenced cohabitation, but then they separated again five months later, in November.⁵³ Their matter was listed for final hearing in

44 *Family Law Act* (n 6) s 79(7), inserted by *Family Law Amendment Act 2024* (Cth) sch 1 item 24. See also *Family Law Act* (n 6) s 90SM(7), inserted by *Family Law Amendment Act 2024* (Cth) sch 1 item 43.

45 *Family Law Act* (n 6) s 79(6), inserted by *Family Law Amendment Act 2024* (Cth) sch 1 item 24 (emphasis added).

46 *Family Law Act* (n 6) s 90SM(6).

47 *Wright v Berger* [2025] FedCFamC2F 1315 [60] ('*Wright*').

48 *Family Law Act* (n 6) ss 4, 79(6)–(7), 90SM(6)–(7).

49 *Wright* (n 47) [1], [10], [22], [24].

50 *Ibid* [21]–[22].

51 *Ibid* [1], [12].

52 *Ibid* [13].

53 *Ibid* [14]–[15].

August 2025 to deal with parenting and property issues.⁵⁴ The mother's affidavit contained a number of allegations of family violence, exacerbated by excessive alcohol consumption, by the father.⁵⁵ The mother contended that the father's application for pursuit of shared time with C, the 16-year-old family dog, was systems abuse and a further exercise of control.⁵⁶

The Court did not make any findings in relation to the family violence on the basis of the mother's agreement to consent orders for shared care of a child.⁵⁷ The Court was also not satisfied that the application for time with C was to be regarded as systems abuse or an exercise of control over the mother.⁵⁸ Although the Court did not make findings in relation to domestic violence,⁵⁹ this does not necessarily mean that the allegations were unfounded. Agreement to consent orders for shared care of a child may occur if a party is persuaded by their legal representative that they have no other choice. Agreement to consent orders does not necessarily mean that a party no longer regards their ex-partner as an unacceptable risk to a child.

The Court was asked to make a decision about shared care of the family dog.⁶⁰ The mother adopted C 14 years earlier, when he was two years old.⁶¹ This was before she had commenced a relationship with the father.⁶² At the time of the hearing C was of advanced age for a dog and suffered health issues.⁶³

The father provided a minute that acknowledged that C was owned by the mother but sought orders that when the child was in his care, C would also be in his care.⁶⁴ The father proposed that transfer of C between the parties could occur at the child's daycare, kindergarten or school, or inside/outside a specific cafe.⁶⁵ The father also proposed that each party would pay half of C's veterinary and registration costs.⁶⁶

Counsel for the mother submitted that under the 2025 amendments, the Court is limited to a choice of only three options for making orders in relation to companion animals:

1. awarding ownership to one of the parties in the proceedings,
2. transferring ownership to a third party, or
3. having the animal sold.⁶⁷

Counsel also made submissions that the question of ownership had been determined because the father had already conceded ownership of C to the

54 Ibid [16].

55 Ibid [56].

56 Ibid [58].

57 Ibid [59].

58 Ibid [60].

59 Ibid [59].

60 Ibid [21].

61 Ibid [8].

62 Ibid [8]–[9].

63 Ibid [8].

64 Ibid [22].

65 Ibid.

66 Ibid.

67 Ibid [23].

mother.⁶⁸ The mother opposed a shared care arrangement of C and sought an order or declaration to confirm that she owned C.⁶⁹

Counsel for the father acknowledged that the new provisions prohibit shared ownership, but submitted that the Court could still use its broad discretionary powers under sections 90SM and 90SMA to make ancillary orders as to the ‘use’ of property that is determined to be owned by one of the parties.⁷⁰ Counsel further submitted that such an order would not be dissimilar to an arrangement whereby property such as farming equipment may be determined to be owned by one party, but ancillary orders could provide for the shared use of this equipment if the Court found such an order to be ‘just and equitable’.⁷¹ So essentially, counsel for the father sought orders that would allow for shared ‘use’ of a dog.⁷²

Judge Forbes stated that, in his view, the 2025 legislative amendments in relation to disputes about companion animals represent a code.⁷³ His Honour stated that the fundamental status of companion animals is still property, albeit a special type of property that has specific considerations that are to be taken into account when resolving ownership disputes.⁷⁴ His Honour considered the section 90SM(7) factors in relation to the facts of the case,⁷⁵ and stated:

The court is constrained by s 90SM(6) in the orders it can make. The proposed orders sought by the applicant are not of a type that the court can make. Whilst it is understandable that the applicant would like to maintain some form of relationship with the animal he has treated as the family pet for some years and he believes there is benefit in the pet being present during the times he spends with [the child], the legislation does not permit the court to make such an order.⁷⁶

Judge Forbes went on to say that even if he could make such orders, he was not persuaded that it would be just and equitable in the circumstances.⁷⁷ His Honour was of the view that the degree of conflict between the parties would indicate that such an arrangement would be inappropriate particularly since the transfer of C was to occur at the same time as the handover of the child, exposing the child to any conflict that might arise.⁷⁸ His Honour confirmed that section 90ST of the *Family Law Act* makes it clear that where a de facto relationship has ceased to exist, the Court has a duty to bring the financial relationships of the parties to finality to allow them to move on and avoid further legal proceedings.⁷⁹

68 Ibid [24].

69 Ibid.

70 Ibid [36]–[37] (emphasis in original), sections 90SM and 90SMA being applicable to de facto relationships: *Family Law Act* (n 6) ss 90SM–90SMA.

71 *Wright* (n 47) [38].

72 This submission views a dog as the same as other personal property whereas the Explanatory Memorandum explained that the amendments recognise the ‘unique character of family pets as valued members of many Australian families’: Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) 31.

73 *Wright* (n 47) [71].

74 Ibid [74].

75 Ibid [43]–[67].

76 Ibid [70].

77 Ibid [76].

78 Ibid [76]–[77].

79 Ibid [79]–[80].

Judge Forbes declared that the mother owned the 16-year-old dog C. His Honour commented that these orders, however, did not preclude the mother from allowing the father to enjoy the dog's company occasionally, including when the child was spending time with her father, but that would be the mother's decision.⁸⁰

Wright is the first decision of the Federal Circuit and Family Court of Australia under the 2025 amendments that relate to the allocation of companion animals after separation and/or divorce.⁸¹ This case determined that under the new amendments, the court does not have the discretion to order shared care of a companion animal between parties. Although the parties in this matter had been a de facto couple, this decision will also apply to married couples. *Wright* essentially 'closes the door' to future applications by any party seeking shared care of a companion animal. This gives clarity to parties initiating applications for property divisions where a pet is the focus. The absence of a shared care option gives finality to parties, and where there has been domestic violence, protects victim-survivors from ongoing interaction with perpetrators of coercive control. The author is of the view that this is a satisfactory outcome in terms of protection of pets and of victim-survivors of domestic violence.

V CONCLUSION

The purpose of this article was to discuss the approach of the family courts when making a determination about the ownership of a companion animal under the 2025 *Family Law Act* amendments; specifically, whether a court can grant shared care of a companion animal. The 2025 amendments responded to the *National Principles to Address Coercive Control in Family and Domestic Violence* by aiming to support victim-survivors of family violence where family pets have been used as a tool by perpetrators of coercive control. *Wright* clarified that the court has only three options of orders: that the animal be owned by one party, that the animal be transferred to a third party, or that the animal be sold. No other orders can be made. The option for a victim-survivor of family violence to seek ownership of a companion animal, or to seek to have it transferred to a third party, lessens one of the impediments to victim-survivors leaving abusive relationships. Prohibiting shared care orders gives finality to the parties and disallows one form of potential ongoing control and surveillance by a perpetrator of family violence. Under the 2025 *Family Law Act* amendments, companion animals are still considered property, and sentience is not yet recognised. Despite this, the 2025 amendments are a positive step forward, supporting the safety, recovery and healing of victim-survivors of family violence. Most importantly, some lives may be saved – both of much-loved companion animals and the victim-survivors who are bonded to them.

80 Ibid [84].

81 Ibid [60].