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About the Private Client Services Department

Experience the boutique feel of Wiggins and Dana's Private Client Services team, which includes over four dozen skilled lawyers and dedicated staff members conveniently located in the communities where our clients live and work.

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NAVIGATING NAME AND GENDER MARKER ALIGNMENT IN ESTATE PLANNING

Clarity is a central feature of good estate planning, and estate planners and clients alike take comfort in knowing that wishes are expressed clearly. When it comes to clearly identifying *individuals* – either as the planning clients or as the intended beneficiaries of an estate or trust – most estate plans assume that a person's name and identifying information are consistent across legal and financial documents, as well as across government programs and services.

That assumption does not always hold, especially for individuals who have changed their names and/or gender markers. For certain individuals, recent developments in federal policy have made consistency across documents more complex (and more important) than ever.

This advisory describes the current landscape and outlines a practical framework to help ensure your estate plan functions as intended.

The Federal Landscape: A Shift with Practical Consequences

The rules governing gender designation on federal identification documents have changed significantly in a short period of time. From 2022 through early 2025, U.S. passports allowed individuals to self-identify by selecting "M," "F," or "X," and applicants could self-select their designation without providing medical documentation.

In January 2025, Executive Order 14168 directed federal agencies to recognize gender as a binary classification based on biological gender at birth. Shortly thereafter, the U.S. Department of State announced that it would issue passports only with "M" or "F" markers aligned with birth records, discontinuing the "X" designation option and disallowing self-identification. These changes have immediate practical consequences for individuals whose prior federal documents reflected a different designation.

Importantly, passports issued under prior rules, including those with "X" markers or designations that differ from birth records, remain valid until their expiration date. However, legal challenges to these policies are ongoing in federal courts, and the regulatory framework may continue to evolve. The result is a growing number of individuals whose federal, state, and other records do not fully align, creating potential complications in contexts where identity verification is required.

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Why This Matters for Estate Planning

Inconsistent identification – that is, documentation that does not align – can present a concern both during the estate planning process and at the critical moment when a plan must be implemented. During the planning phase, mismatched records can complicate the execution of documents, the funding of trusts, and the coordination of beneficiary designations across accounts. When it is time to administer an estate, fiduciaries (executors or trustees) must present identification to financial institutions, courts, and government agencies—each of which may have different records on file. When a decedent’s passport, driver’s license, bank accounts, and estate planning documents reflect different names or gender markers, fiduciaries may face delays in accessing accounts, additional documentation requests to prove identity, and uncertainty in confirming beneficiary designations. These complications arise during already difficult times for loved ones, adding administrative friction to the grieving process.

The objective is no longer perfect uniformity across all systems. Instead, the goal is intentional alignment, ensuring that differences are accounted for and do not interfere with either the creation or the administration of your plan.

Document Alignment Map

A coordinated review of key records can help minimize risk:

Category	Key Documents/Accounts	Common Alignment Issues	Estate Planning Considerations/ Action Items
Government Identification	Passport (federal), Driver’s License / State ID, Birth Certificate	Federal documents may reflect gender at birth, while state IDs may reflect gender identity; names may differ across documents	Ensure estate documents clearly identify you using full legal name and any prior names; anticipate mismatches and document them intentionally
Financial Accounts	Bank accounts, Brokerage accounts, Retirement plans, Life insurance	Name variations or outdated beneficiary designations	Confirm beneficiary designations are current and consistent; align account naming with estate plan
Employment & Benefits	HR records, Health insurance, Employer retirement plans	Employer systems may lag behind legal updates	Review employer-sponsored benefits separately; confirm alignment with estate planning documents
Estate Planning Documents	Will, Revocable trust, Power of attorney, Health care proxy	Documents may reflect outdated name or inconsistent identifiers	Re-execute or amend documents after significant changes; use “also known as” language where appropriate
Real Estate & Titling	Deeds, Mortgages, Property insurance	Property may remain titled under prior name	Confirm titling aligns with current name or trust structure; update as needed
Medical Systems	Hospital records, Patient portals, Insurance systems	Medical records may not match legal or estate planning documents	Align health care proxy with medical records; confirm agents can access information
Digital Assets	Email, Cloud storage, Financial apps	Access tied to prior identity or outdated credentials	Maintain inventory of digital assets; coordinate access for fiduciaries

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Key Takeaway

Perfect uniformity across documents is not always possible, especially given the recent changes in federal law. The focus should be on clarity, traceability, and deliberate coordination so your identity can be verified when it matters most.

Estate Planning After a Name or Gender Change

A name or gender marker change should prompt a targeted review of your estate plan and related records. The most immediate priority is ensuring that your core estate planning documents (including your will, revocable trust, powers of attorney, and health care proxy) reflect your current legal name. Depending on the nature of the changes and the age of the documents, this may require re-executing the documents entirely or preparing formal amendments. Documents that were properly executed under a prior name remain legally valid, but updating them reduces potential confusion during administration and ensures that the individuals you have named as fiduciaries can act without unnecessary complications.

Equally important is reviewing and updating beneficiary designations across all financial accounts, retirement plans, and life insurance policies. These designations operate outside of your will and trust, passing assets directly to the named beneficiaries. If the name on a beneficiary designation does not match current records, the financial institution may require additional documentation to verify identity before releasing funds. A systematic review of all accounts, confirming that each reflects your current legal name and intended beneficiaries, can prevent delays and ensure assets pass as intended.

Trust Funding and Fiduciary Considerations

Beyond the immediate document updates, a name or gender marker change should also prompt a review of trust funding and asset titling. If you have a revocable trust, assets must be properly titled in the name of the trust to avoid probate. When your legal name changes, deeds, account registrations, and other title documents may need to be updated to reflect either your new name individually or as trustee of your trust. This is also an appropriate time to review your fiduciary appointments (i.e., the individuals you have named as executor, trustee, agent under power of attorney, and health care proxy) to confirm they remain appropriate and that succession structures are in place if primary fiduciaries are unable to serve.

Drafting for Clarity and Flexibility

Thoughtful drafting can significantly reduce the impact of inconsistent records. Several techniques are particularly useful in this context.

First, estate planning documents should use your full legal name along with any prior names where relevant. A statement such as "Jane Smith, formerly known as John Smith" or the use of "also known as" (aka) references creates a clear link between your current identity and any records that may still reflect prior information. This approach is particularly important when real estate, financial accounts, or other assets remain titled under a former name.

Second, consider minimizing the reliance on gendered pronouns. Traditional estate planning documents often use "he" or "she" throughout, which can create ambiguity if those references no longer align with other records. Using the individual's name, or neutral constructions such as "the Grantor," "the Trustee," or "such individual," avoids this issue

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entirely. Similarly, relationship definitions should be drafted with clarity and flexibility, for example, defining “children” or “descendants” in ways that do not depend on assumptions about family structure.

These techniques help ensure your plan is identifiable and enforceable across different administrative frameworks, regardless of how identity information is recorded in various systems.

Practical Steps to Reduce Friction

Several practical steps can support your estate plan and reduce friction during administration.

1. Maintaining a master list of all accounts, including how your name appears on each, provides your fiduciaries with a roadmap for locating and accessing assets. This inventory should include bank accounts, brokerage accounts, retirement plans, insurance policies, real estate, and digital assets, noting any name variations across these records.
2. Retaining documentation of any legal name changes, such as court orders, marriage certificates, or other official records, is equally important. These documents serve as the bridge between your prior and current identity, and fiduciaries may need to present them to financial institutions, title companies, or government agencies during estate administration. Storing copies with your estate planning documents, and informing your fiduciaries of their location, can prevent delays when access is needed.
3. Proactively informing your fiduciaries of any inconsistencies across your records, and conducting periodic reviews to ensure ongoing alignment, can significantly streamline administration and reduce uncertainty. As your circumstances change, or as the legal landscape evolves, regular check-ins with your estate planning attorney can help ensure your documents remain current and effective.

Planning in a Changing Environment

The legal framework governing identity documents continues to evolve. While the current federal policy framework is in place, ongoing litigation in federal courts may result in changes, and future administrations may adopt different approaches. State-level policies also vary significantly, with some states offering streamlined processes for updating gender markers and others imposing more restrictive requirements.

Given this uncertainty, estate planning in this area should:

- **Prioritize Flexibility**—drafting documents that will function effectively regardless of how policies may change.
- **Emphasize Clear Identification**—ensuring that your identity can be verified across different systems and time periods.
- **Incorporate Regular Review**—recognizing that both your personal circumstances and the legal landscape may evolve, and that your documents should evolve with them.

Final Thoughts

Estate planning is ultimately about ensuring that your wishes are carried out clearly and efficiently. When identity information varies across systems, that objective requires additional coordination.

By proactively aligning your documents, and accounting for differences where they exist, you can reduce administrative burdens and help ensure that your plan operates as intended, with clarity and respect for your identity.

For help with structuring your estate plan to accomplish your objectives, reach out to a Wiggin and Dana attorney; our team is ready and capable to assist.

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