

Tennessee Protects Elvis, Wisconsin Abandons Les Paul: What the NO FAKES Act Freezes in Place

A bill moving through the Senate will fix every state's digital replica law at whatever it happened to be on January 2, 2025. Tennessee locked in a statute that protects a performer's voice. Ours was written in 1977. It doesn't mention voice, and it doesn't outlive us.

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Raise your hand if you saw live music in Wisconsin this summer. Keep it up if the band or artist played something they wrote themselves.

I'd bet most of us still have a hand in the air. Milwaukee is the City of Festivals in a state that takes its summer stages seriously. And nearly every one of us watched somebody shred on a solid-body electric guitar.

That instrument was invented by a man from Waukesha. Les Paul, born Lester Polsfuss in 1915, built the thing that made most of the last 70 years of popular music possible, and, while he was at it, figured out how to record it on more than one track, which is arguably more consequential. Without multitrack recording, you wouldn't have *Abbey Road* by The Beatles. Les Paul died in 2009.

Under Wisconsin law, his estate holds no right to his name, his image, or his voice. And the right didn't lapse; it never survived him at all.

Tennessee wrote a law about exactly this and named it after Elvis Presley. The Ensuring Likeness, Voice and Image Security Act protects a performer's voice, including a simulation of one, and it doesn't end when the performer does. It's been in force since July 2024.

In Waukesha, we named a road after Les Paul.

KEY TAKEAWAYS

- **We're about to have our answer frozen, and we didn't pick the date.** A bill moving through the Senate preserves only the state law that already existed on January 2, 2025. Ours dates from 1977. It qualifies because it's old, not because it's good.
- **We protect a name and a picture. Not a voice, and not after death.** Section 995.50 reaches the name, portrait, and picture of living persons. New York, long the other state in this position, closed its half of that second gap in 2021. Ours is still open.
- **We got here first, and then we stopped.** Our Supreme Court recognized a common law right protecting aspects of a person's identity in 1979, four years before the Sixth Circuit protected Johnny Carson's catchphrase and nine before the Ninth Circuit protected Bette Midler's voice. No Wisconsin court has taken it further since.
- **We do legislate about likeness. We did it last year, for athletes.** In 49 years this area of our law has moved exactly twice, both times for the University of Wisconsin. Meanwhile we fund the state arts agency at 20 cents a resident, 48th of 50, against Minnesota's \$7.85.

- **There is a 90-day federal window, and almost nobody knows about it.** The NO FAKES Act does reach people who are already dead, but where someone died ten or more years before it takes effect, their estate has to register with the Register of Copyrights within 90 days and swear the name has been in active commercial use. Estates that kept a ledger get the right. Estates that only kept the memory don't.
- **The laws we're defending were never the ones at risk.** All three Wisconsin AI laws named in the Governor's April letter sit inside carve-outs the federal bill already preserves. We'll get a federal answer either way. What we're losing is the ability to have given our own.

Executive Summary

Wisconsin protects a person's identity under a privacy statute written in 1977 and a common law right recognized by our Supreme Court in 1979. Between the two laws, they cover a person's name, portrait, and picture, plus a nickname on the strength of one case. They don't mention voice, and they only apply while you're alive.

This has been a gap we could close whenever we wanted to, but as of this summer, it's a gap that's closing on us instead.

The NO FAKES Act of 2026 cleared the Senate Judiciary Committee on a unanimous voice vote on June 18. It creates a federal property right in a person's voice and visual likeness, for celebrities and us normal folks alike, lasting up to 70 years after death. It also preempts state digital replica law going forward, while preserving state statutes and common law that were already in existence on **January 2, 2025**.

Wisconsin's law survives that date. So does Tennessee's, which the bill names outright. That isn't the good news it sounds like, because what we have grandfathered is whatever we happened to have on the date. **Not a well-thought-out decision, just an old one.**

What that means is that a Wisconsin musician whose voice is cloned would be asking a court to extend a 1979 case about a nickname to something nobody imagined, against a defendant arguing a 1977 statute already settles the question. Meanwhile, a Tennessee musician can point at a statute that

says “voice,” and can add that it covers a simulation of one. The estate of a Wisconsin artist has nothing to point at in either direction.

The kicker is we’re not short on legislation about likeness. We passed a name, image, and likeness law last year for university athletes. We’ve banned AI-generated child sexual abuse material, required disclosure of AI use in political advertising, and criminalized sexually explicit deepfakes made to coerce or harass. Every one of those laws is safe from preemption. Not one of them is about a creator’s voice.

The short version is that the window to write our own answer closed well before the committee ever voted, and almost nobody here noticed, because we have never framed the copying of a creator’s voice as the kind of harm Wisconsin legislates against.

Where We’re At and What We Have

The statute from 1977

Right now, Wisconsin’s protection lives at section 995.50 of the statutes, enacted in 1977 and modeled on a New York privacy law. It makes it an invasion of privacy to use, for advertising or for purposes of trade, the “name, portrait or picture” of any living person, without first getting written consent.

Read that list again: name, portrait, picture. **There’s no voice in it**, and in 1977 there was no reason for there to be. The statute also carries a broad newsworthiness defense, an incidental use exception, and an instruction that it be read with due regard for freedom of communication. It punishes overreach, too: sue and lose on frivolous grounds, and you can be made to pay the other side’s costs.

This protection applies to *living* persons.

What each law reaches				● Covered	○ Not covered
	Wisconsin	Tennessee	NO FAKES		
Name	●	●	●		
Portrait and picture	●	●	●		
Voice	○	●	●		
Anything after death	○	●	●		

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Wisconsin protects what a 1977 legislature could name. Tennessee protects a voice explicitly, including a simulation of one, and its protection survives the performer. The two gaps in our column are the two this briefing is about.

The case decision from 1979

Two years after the statute, our Supreme Court heard from Elroy Hirsch, a Wausau, Wisconsin native. Hirsch was a Badger, a Ram, known to everyone as “Crazylegs,” and at that moment the sitting Athletic Director of the University of Wisconsin–Madison, 10 years into an 18-year tenure. A company had started selling women’s shaving gel under his nickname without asking him.

The court decided in favor of Hirsch, and in doing so recognized something the 1977 statute doesn’t contain: a common law right of publicity, separate from privacy, protecting the property interest in the publicity value of aspects of a person’s identity; not a fixed list of attributes, but *aspects* of identity. In this case, a nickname counted.

This is a broader principle than section 995.50, and **it’s ours**.

We were first, and then we stopped

It’s worth sitting with the timing here. *Hirsch* was 1979. The Sixth Circuit protected Johnny Carson’s catchphrase in 1983. The Ninth Circuit protected Bette Midler’s voice against a deliberate imitation in 1988, and Tom Waits’ in 1992, where a jury awarded him \$375,000 in compensatory

damages and \$2 million in punitive damages. Later that same year, the Ninth Circuit held that a robot in a blonde wig, turning letters on a game show set, had appropriated Vanna White's identity without using her name or her face at all.

Every one of those cases rests on the principle our court reached first: that what the law protects is identity, not a list of labels.

Wisconsin got there before anyone. Then we never applied it again.

First to the principle, and then nothing



Drawn to scale. Carson, Midler and White are federal appellate decisions; Hirsch is ours, and the earliest.

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Our Supreme Court reached the principle that publicity rights protect identity, not a list of labels, four years before the Sixth Circuit and nine before the Ninth. It has not been applied to a new identifier here since.

How our courts read a new technology

The most recent significant test of section 995.50 came in 2013, and it didn't go the way an optimist would hope. In *Habush v. Cannon*, two of the best-known personal injury lawyers in our state sued competitors who had bought "Habush" and "Rottier" as search engine keywords, so that a rival firm's advertisement appeared above their own listing.

Our Court of Appeals never reached the big question of whether this was an unreasonable invasion. It stopped earlier, holding that buying a person's name as a keyword isn't a "use" within the meaning of the statute at all, a ruling that turns on the fact that nobody ever saw the name.

The posture matters more than the holding. Faced with a technology the 1977 legislature couldn't have contemplated, our courts read the old words narrowly rather than stretching them.

What that leaves a Wisconsin musician

Two halves that pull against each other. Our common law is elastic and untested. Our statute is tested and narrow.

So the honest position isn't that Wisconsin creators have no protection at all. It's that they have protection nobody has tried.

There's a real argument that this is a strength, and I want to put it fairly because I think it's the best case against everything I'm about to say. A common law right that protects *aspects of identity* rather than an enumerated list is, in principle, more adaptable than a statute. Tennessee had to name a voice to protect one. Wisconsin arguably doesn't, because *Hirsch* already reaches whatever makes a person recognizable. On that reading we're better positioned than the states that legislated, and the grandfather clause preserves exactly this flexible right.

I don't think it holds, for two reasons. The first is *Habush*, though I'll concede its limits: it construed the statute, not the common law, and a court could take the common law somewhere the statute can't go. The second reason is the one I find harder to argue past. A right that is broad in principle and untested in fact is not a protection, it's a lawsuit. It asks a Wisconsin musician to fund the appeal that establishes it, against a defendant with better lawyers, on a question our courts have not touched in the 47 years since *Hirsch*. Tennessee's musician doesn't need to be a test case. That difference is the whole practical distance between the two states, and no amount of doctrinal elegance closes it.

What's About to Happen

The bill, and what it would create

The NO FAKES Act of 2026 is the federal answer to synthetic media, and it's further along than most people realize. The Senate Judiciary Committee sent it forward on June 18, unanimously. It hasn't passed the Senate, and the House companion hasn't moved, so nothing here is settled.

What it would create is a federal intellectual property right in a person's voice and visual likeness. Not strictly for performers or celebs, but for *everyone*. The protection doesn't end when someone dies. It runs for 10 years automatically, and can then be renewed in five-year terms for as long as 70 years after

death, but only if the person's name, image, or likeness is still being used to make money.

The idea didn't come only from the entertainment industry. In July 2024, the U.S. Copyright Office also urged Congress to create a federal right after concluding that existing laws leave significant gaps in protection against AI-generated replicas. Whatever role industry advocacy has played, the proposal is also rooted in a formal government recommendation.

The date that decides it

The most important part of this bill for Wisconsin isn't the new protections themselves, but the preemption.

If the bill becomes law, the federal rules would generally take over instead of new state laws governing digital replicas. However, states could still enforce laws or legal claims that already existed as of **January 2, 2025**. There are two exceptions that would survive regardless: states would continue to be free to regulate AI-generated sexually explicit content and AI-generated election deepfakes, even after the federal law takes effect.

Which states' laws made the cutoff

Tennessee passed the ELVIS Act in March 2024, effective that July. The acronym is the point. It protects a person's voice explicitly, including a simulation of a voice, and it survives death. It's grandfathered, and the bill names it as an example of what survives.

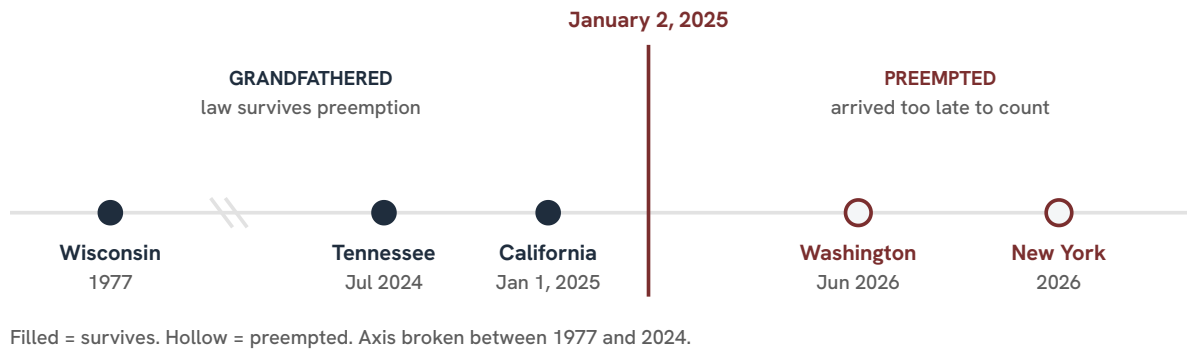
California's two digital replica statutes took effect on January 1, 2025, one governing contracts with living performers and one requiring estate consent for replicas of the dead. They are inside the line by a single day.

Washington's new right of publicity law was signed in March 2026 and took effect on June 11. New York amended its statute this year as well. Neither made the cutoff, and both would be preempted.

Wisconsin *is inside* the line, on the strength of a statute from 1977 and a case from 1979.

The line isn't drawn around states that thought carefully about this. It's drawn around a date. Our law qualifies because it's old, not because it's good.

The line is a date, not a judgment



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The NO FAKES Act preserves state law that existed on January 2, 2025 and preempts what comes after. Wisconsin is on the safe side of the line because its statute is old, not because it is well suited to the problem.

The window closed before we even noticed

And here's the part that changes what we in Wisconsin can do about it. The cutoff isn't a deadline ahead of us; it's behind us by more than a year and a half, and was behind us before the committee ever voted.

Anything our legislature passes now on digital replicas falls on the far side. We can't legislate our way to a Wisconsin replica right, because the version of Wisconsin law that counts was already fixed on a date in January 2025. Something narrower is still open to us, and I'll come back to it.

Who This Reaches

The man who built the instrument

Back to where we started. Les Paul's estate has no right of publicity in Wisconsin, because Wisconsin recognizes no right of publicity after death. Not by statute, not at common law. A federal court applying our law said so plainly in 1986, in a case brought over the name of Frank Lloyd Wright.

For years the standard line was that Wisconsin and New York were the two states that gave a person's estate nothing. That stopped being true in 2021, when New York created a post-mortem right running 40 years from death. It only reaches people who died after the statute took effect, so it wouldn't have helped Les Paul either. But New York looked at the gap and closed half of it, and did it early enough that the federal bill leaves that half alone. We have not looked at ours.

Tennessee named a statute after Elvis Presley to protect exactly this. We have a road named after Les Paul in Waukesha, a permanent exhibit at Discovery World, a monument at Prairie Home Cemetery, and a foundation that carries his name. What we don't have is a law that stops anyone from using it.

The voices we never protected

Al Jarreau was born in Milwaukee and died in 2017. Liberace was born in West Allis and died in 1987. Both had voices people recognized instantly. Under current Wisconsin law, if someone built a realistic AI performance out of either voice today, and sold it, their families would have no right of publicity claim to bring.

The voices we still have a chance at protecting

Justin Vernon records as Bon Iver from Eau Claire, where he still lives and works. His artistic signature is his voice itself, layered and processed into something immediately recognizable, and exactly the kind of sound an AI model can be trained to reproduce.

Wisconsin protects his name, his portrait, and his picture.

What the sector is worth in Wisconsin

This isn't a niche concern imported from LA or Nashville. By the federal government's own accounting, arts and cultural production in Wisconsin was worth \$12.4 billion in 2023, the most recent year measured, and employed 95,305 people. That's more than our beer, biotechnology, or papermaking industries.

And it has recovered from the pandemic in dollar terms; \$12.4 billion is more than it has ever been worth. What hasn't recovered is its share of us. Four percent of state GDP in 2002, 3.1 percent in 2019, 2.8 percent in 2020, and 2.9 percent in 2023. The sector keeps growing and keeps becoming a

smaller part of what Wisconsin is.

What we spend on it

Squarespace, the website company, published a ranking this year that put Milwaukee first in the United States for creative people, ahead of Chicago, Minneapolis, and Los Angeles. It's a marketing study rather than economic research, and it deserves to be read as one. But its inputs are ordinary enough: performance venues, galleries, independent theaters, bookshops, and craft fairs, measured against population.

Rank us on what we spend, though, and we come **48th**. Wisconsin puts 20 cents per resident into the arts.

Minnesota puts in \$7.85 a head. Nearly 40 times what we spend, immediately across the river.

State arts appropriation per resident, fiscal 2026



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Fiscal 2026 legislative appropriations to state arts agencies, per resident. The national average is \$1.88 and the Midwest average is \$1.90; Wisconsin is at 20 cents. The bars are drawn to the same scale, and the Wisconsin bar is not an error.

We employ more people in the creative sector than in brewing, we're told Milwaukee is the best city in the country to be an artist, and we fund it at 20 cents a head. It shouldn't be surprising that almost nobody was watching the date.

What the Federal Right Is Built For

What it protects well

There's an obvious suspicion about a bill this well-endorsed: that it was written for studios and labels, not for the people whose voices are being copied. On at least one important measure, that isn't true. Ask whether you can sign your identity away for good, and the federal bill protects you better than Wisconsin law does.

Under the bill, you can't sell your identity outright. You can only rent it. That distinction carries the whole protection. An *assignment*, which is the legal word for the sale, hands the right to someone else permanently. Once it's gone, it's gone. A *license* is temporary, and what you licensed comes back to you.

So while you're alive, the Act permits licenses only, and it puts limits on them. A license has to be in writing. It can run for no more than 10 years at a time, and it has to describe the intended uses in reasonable detail. Where the person is under 18, it's capped at five years, requires a court's approval, and expires automatically when they turn 18.

Wisconsin, California, and Tennessee all let the right be assigned. A Wisconsin musician can sign that right away permanently today, in a contract that never ends. Under the federal bill, they couldn't.

What changes when you die

When the person dies, the architecture changes. The post-mortem right is transferable and licensable by executors, heirs, assignees, licensees, and devisees. The 10-year ceiling that constrains a label while you're alive doesn't follow you into your estate. And keeping the right alive past its initial post-mortem term depends on it being commercially exploited.

A right that has to be monetized in order to persist is a right built for a market, not for a family.

The ninety days nobody is talking about

Here is the part that matters most to Wisconsin, and the part I have seen almost no one discuss.

The federal right reaches people who are already dead. It doesn't only run forward from the day the bill is signed. Where someone died before enactment, the right vests in their executors, heirs, and devisees, which means Les Paul is not outside this bill the way he is outside Wisconsin law.

But for the long dead, getting in requires an affirmative step. Where a person died ten or more years before the Act takes effect, the estate has to **register** the post-mortem right with the Register of Copyrights, and it has to do so within **90 days**. The filing includes a statement, sworn under penalty of perjury, that the estate was actively and publicly using that person's voice or likeness in commerce in the period before enactment.

That's the market-and-not-family rule again, this time with a deadline attached. An estate that kept the person's work in commercial circulation can file. An estate that simply kept the person's memory cannot. And the ones most likely to miss a 90-day federal filing window are the ones without a lawyer watching for it.

Les Paul's estate would very likely qualify. His name has been on a manufactured guitar continuously for 70 years, which is about as clear a case of active public use as exists. Al Jarreau died in 2017, which puts him inside the ten-year mark for now, though that turns on when the Act actually takes effect. Liberace died in 1987, and whether his estate can make the showing depends on facts I can't resolve from here.

The practical point is the same for all three. The only post-mortem protection any Wisconsin artist's family is going to get is federal, it is conditional on commercial activity, and for the long dead it runs through a window measured in weeks.

The provisions that aren't about people

The protections for individuals are easy to understand. Limits on licensing help keep someone from signing away control of their identity forever. Preemption serves a different purpose. Replacing 50 state laws with one national standard doesn't matter much to an individual; it matters a great deal to companies that operate across all of them.

The enforcement rules follow the same pattern. Platforms must make reasonable efforts to stop a removed replica from reappearing, which in practice means fingerprinting technology of the kind YouTube spent years and reportedly hundreds of millions of dollars building. The biggest platforms already have it. Smaller competitors would have to buy or build it. YouTube, accordingly, supports a bill that would impose new obligations on platforms.

Even the improvements follow it. The 2026 version added a counter-notification process so people can challenge a wrongful removal, which is a real safeguard. It also requires a notarized signature. For a studio that's an administrative step. For an independent creator at home, it's one more thing standing between them and their own work.

Who Wisconsin Legislates For

We do legislate likeness. We did it last year.

None of this is a claim that Wisconsin can't write this kind of law. We plainly can, and recently have.

Act 203, the athlete name, image, and likeness law, carried **\$14.6 million a year** for athletic facilities. In fiscal 2022, **the Wisconsin Arts Board, the agency responsible for every artist, gallery, theater, and festival in the state, was appropriated \$807,100.**

I don't want to oversell that pairing. One of those numbers is debt service on buildings and the other is a grant program, and a legislator would be right to say they aren't the same kind of money. The comparison that survives that objection is the one where the categories match, and we made it a few paragraphs ago.

Wisconsin's law of identity has actually moved twice.

In 1979, our state Supreme Court recognized a common law right of publicity because the sitting Athletic Director of the University of Wisconsin sued over the commercial use of his nickname. In 2025, our legislature wrote a name, image, and likeness statute because University of Wisconsin athletes needed one.

In 49 years, this area of Wisconsin law has developed exactly twice. Both times it moved for the same institution. Artists have *never* had a turn.

None of that is a criticism of Elroy Hirsch, who had a real claim and won it. It's an observation about who is able to bring the case, and who has someone in Madison to ask on their behalf. A working musician in 1979 had neither. In 2026, with a state arts agency funded at 20 cents a head, she still doesn't.

It's clear we're willing to legislate about likeness when someone has the standing to ask.

The laws we're defending were never the ones at risk

Governor Evers made that case himself. His April 2026 letter to our congressional delegation opposed a federal framework that would preempt state artificial intelligence laws outright. "States are not obstacles to America's AI leadership," he argued, and states need the ability to respond to new harms as they emerge. He named three Wisconsin laws that broad preemption would put at risk: the child sexual abuse material ban, the political advertising disclosure, and the sexually explicit deepfake law.

Two of those are sexual-content laws and one is an election law, which is precisely the pair of carve-outs the NO FAKES Act preserves permanently, whatever their date. **All three were already safe.**

Our most senior defense of our own AI legislation defends the three laws that were never in danger, and doesn't mention creators once.

The letter defends something real, and the three laws in it are good laws. The point isn't that it argued badly. It's that when our chief executive sat down to write out everything Wisconsin stands to lose to federal preemption, the list he produced contained no creators. Not as an oversight, I think, but because the category doesn't occur to us. Wisconsin's approach to synthetic media is organized entirely around harm to victims: children, voters, people being harassed. Copying a creator's voice for money has never been framed as a harm of that kind, so nobody here is defending against it, including in the document whose whole purpose was to list what we stand to lose.

What We Can Still Decide

What's foreclosed

One specific bill is foreclosed. If our legislature passes a statute next session creating a Wisconsin right against unauthorized digital replicas, it arrives after January 2, 2025, and the federal Act preempts it. That is worth saying plainly, because it is precisely the bill the instinct in Madison will reach for.

But “digital replica law” is a narrower category than “anything Wisconsin could do,” and I spent a while assuming otherwise. The gap between those two things is where the remaining work sits.

What Madison can still do

Regulate the contract, not the right. This is the one I'd put first. California's AB 2602 doesn't create a replica right; it governs what a contract with a living performer is allowed to say, voiding terms that hand over a digital replica without specific description or meaningful representation. That is contract law, a field states have run since before there were states. Wisconsin could set minimum terms for any likeness license signed by a Wisconsin resident: in writing, finite, specific as to use, with real limits where the signer is a minor.

Would it survive preemption? Honestly, nobody knows. The Act preempts state rights in digital replicas, and a court could read a contract statute as that right wearing a disguise. California's version is grandfathered, so it will never test the question. But this is the same fix I'm about to ask Congress for, and Wisconsin might be able to give it to its own residents without asking anyone's permission. If we are going to find out where the edge of preemption is, I would rather we found out by legislating than by not legislating.

Give estates something, even if it can't be everything. A general post-mortem right of publicity isn't replica law. It covers the ordinary commercial uses that have always been the core of publicity rights: merchandise, endorsement, a face on a product. Preemption would bite where such a right met a digital replica, and that limit is real. But right now Les Paul's estate has no claim against a T-shirt either, and that has nothing to do with AI. New York closed its half of this gap in 2021. Ours is a 1977 drafting choice that nobody has revisited in 49 years.

Use the two lanes we were left. Sexually explicit replicas and election-related replicas are carved out of preemption permanently. We already legislate on both and can keep going.

Fund the agency. This one needs no theory of preemption at all. Twenty cents a resident is a choice made every budget cycle, and it is the reason there was nobody whose job it was to notice a date in January 2025.

Tell people about the 90 days. When the federal Act takes effect, the estates of Wisconsin artists dead ten years or more will have about three months to register a right most of them will never hear about. The Arts Board, the historical society, the university system, and the delegation's own casework staff could all fix that with a mailing list. It is the cheapest thing on this page and probably the most useful.

What's still open federally

The larger opening is federal, and it's temporary. The bill hasn't passed, which means its terms are still moveable.

What our delegation should watch, and decide

The most serious criticism of the bill comes from both directions at once, and lands in the same place.

Jennifer Rothman, who supports a federal publicity right in principle, argues that the Act permits broad long-term licensing and allows authorized representatives to license a person's replica without their knowledge. The Electronic Frontier Foundation, which opposes the Act, argues that performers will be pressured into unfair deals or grant rights through terms of service nobody reads. Rothman and the EFF agree on very little. They agree about this.

What they're describing has already happened. In *No Doubt v. Activision*, Gwen Stefani's band licensed its likenesses for a music game and later found out that players could manipulate the avatars' voices and make them perform songs the band had never recorded. A California appellate court held the use was not transformative, and the First Amendment defense failed. The band won. The dispute was never about whether consent existed, but about *what the consent covered*.

A bigger right isn't the amendment worth asking for; a narrower license is.

The part we still choose

There's a longer argument here about whether the durable answer is a statute at all, or a record of what a person actually agreed to that no single counterparty can quietly rewrite. That's a subject for another briefing.

For now, the position is simpler than it looks. We're about to have our answer to a question about AI fixed permanently at an answer our state legislature gave in 1977, to a different question, about tech that didn't exist.

Wisconsin didn't choose that. It's the theme running through all three of these briefings: we legislate by reaction, not by design, and we hesitate to write law around technology that is still moving. This is what happens when the deadline is already behind you and nobody was watching for it.

We'll likely get a federal answer either way. **What we're losing is the ability to have given our own.** Wisconsin isn't merely being frozen out of a better law. We're inheriting a framework designed around the needs of national rights holders and global platforms, not Wisconsin creators.

The Road in Waukesha

I've been writing about Wisconsin as though the interesting thing here is Wisconsin. It isn't, entirely. The mechanism in this bill will do the same thing to every state that didn't happen to be paying attention in 2024, and it will do it without anyone casting a vote against those states. That is a genuinely new way to lose a policy argument: not defeated, not outvoted, just late to a date you were never told about. Wisconsin is the worked example because it's mine.

But come back to Waukesha with me for a second.

There's a road there with Les Paul's name on it. We are, by any fair measure, a state that honors him. The one thing we never did was write down that his name belonged to him after he died. Tennessee wrote that down for Elvis, and then went further and wrote down his voice, which is the part a

machine can now take.

If the federal bill passes, his family will probably be fine, for the reason given earlier: the guitar kept the name in commerce, and commerce is what the registration provision asks about. The estate that keeps a ledger gets the right. That's the bill working as designed, and the design has a preference built into it.

The Wisconsin artist I'd actually worry about isn't Les Paul. It's someone playing a room in Eau Claire or Milwaukee this weekend, whose voice is distinctive enough to be worth copying, who is going to sign something this year, and who has never been told that under Wisconsin law a voice isn't among the things a person owns. Name, portrait, picture. That's the list. It was written in 1977 and nobody has touched it since.

Les Paul spent his life on a single problem: how to catch a voice and keep it. Multitrack recording exists because he wanted to lay his own sound over itself and hear what came back. Everything that can copy a voice today runs on recordings, and recordings work the way they do because of him.

We named a road after him. We never got around to deciding the voice was his.

Sources

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- Tennessee ELVIS Act, SB 2096. [Tennessee General Assembly](#). Signed March 21, 2024, effective July 1, 2024.
- California [AB 2602](#) and [AB 1836](#), both effective January 1, 2025; AB 1836 amends Cal. Civ. Code § 3344.1.

- Washington SB 5886. [Washington State Legislature](#). Signed March 2026, effective June 11, 2026.
- *Midler v. Ford Motor Co.*, 849 F.2d 460 (9th Cir. 1988); *Waits v. Frito-Lay, Inc.*, 978 F.2d 1093 (9th Cir. 1992); *White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9th Cir. 1992); *Carson v. Here's Johnny Portable Toilets, Inc.*, 698 F.2d 831 (6th Cir. 1983).
- *Comedy III Productions, Inc. v. Gary Saderup, Inc.*, 25 Cal. 4th 387 (2001); *No Doubt v. Activision Publishing, Inc.*, 192 Cal. App. 4th 1018 (2011).
- U.S. Copyright Office, *Copyright and Artificial Intelligence*, Part 1: Digital Replicas (July 2024); Part 2: Copyrightability (January 2025). copyright.gov/ai.
- Jennifer Rothman, “Reintroduced No FAKES Act Still Needs Revision,” [The Regulatory Review](#) (August 2025).
- Electronic Frontier Foundation, “The NO FAKES Act Could Silence Satire, Commentary, and News.” eff.org (June 2026).
- Bureau of Economic Analysis and National Endowment for the Arts, Arts and Cultural Production Satellite Account, Wisconsin data for 2023. [Wisconsin Arts Board](#): \$12.4 billion value added, 95,305 jobs, 2.90% of state GDP. Earlier-year figures and the Arts Board appropriation from Wisconsin Policy Forum, [State of the Arts](#).
- National Assembly of State Arts Agencies FY2026 legislative appropriations, via Arts Midwest, [Public Funding for the Arts in the Midwest: 2026 by the Numbers](#). Wisconsin \$0.20 per resident and 48th of 50; Minnesota \$7.85; national average \$1.88.
- 2025 Wisconsin [Act 203](#) (AB 1034); 2023 Wisconsin Acts 224 and 123; 2025 Wisconsin [Act 34](#) (2025 Senate Bill 33), enacted October 2, 2025, criminalizing distribution of a “synthetic intimate representation” with intent to coerce, harass, or intimidate.
- Office of Governor Tony Evers, letter to Wisconsin’s congressional delegation, April 15, 2026.

Common questions

What is a digital replica?

A computer-generated or manipulated version of a real, identifiable person’s voice or appearance, realistic enough that an ordinary listener or viewer would take it for the real thing. The definition matters because states write it differently. Tennessee’s reaches a simulation of a voice. Washington’s requires that the replica be likely to deceive. Wisconsin doesn’t define it, because Wisconsin has no digital replica law.

Does Wisconsin protect my voice?

Not by statute. Section 995.50 covers your name, portrait, and picture, and says nothing about voice. Our common law right of publicity, from *Hirsch*, protects aspects of your identity more broadly and could in principle reach a voice. No Wisconsin court has been asked to decide that, and the most recent statutory case, *Habush v. Cannon*, read the 1977 language narrowly rather than stretching it.

What happens to my likeness when I die?

In Wisconsin, nothing survives you. The statute applies to living persons, and our common law right ends with the person; a federal court applying Wisconsin law confirmed as much in 1986. Your estate can't bring the claim you could have brought yourself. New York, long the other state in this position, created a post-mortem right in 2021, which leaves Wisconsin in a very small group. The NO FAKES Act would supply a federal post-mortem right, but for anyone who has been dead ten years or more it depends on a registration filed in a 90-day window.

Can Wisconsin still pass its own law?

A Wisconsin digital replica statute, largely not. If the NO FAKES Act becomes law it preserves only state law that existed on January 2, 2025, and preempts what comes after, so a new one would arrive too late to count. But that category is narrower than it sounds. Two areas stay open permanently because the Act carves them out: sexually explicit replicas and election-related replicas. Beyond those, Wisconsin could regulate what a likeness *contract* is allowed to say, as California did, which is contract law rather than a replica right; it could create a general post-mortem right of publicity covering ordinary commercial uses; and it could fund the state arts agency at something above 20 cents a resident. Whether a contract statute survives preemption is untested.

Does the NO FAKES Act help Wisconsin creators?

Yes, and less than it looks. It would give every Wisconsin creator a federal right in their voice and likeness, which our law does not, and give their estates a right for the first time. But it works through written licenses, 10-year caps, and a counter-notification process that requires a notarized signature. Those are procedural protections, and procedural protections are most useful to people who have representation. Most of our creative workforce doesn't.

What can a Wisconsin creator do now?

Read what you sign, particularly any clause granting rights to a likeness, voice, or performance for uses described in general terms. Ask how long it lasts. Ask what happens on renewal. And contact the congressional delegation while the bill is still moveable, because the licensing terms are where it is weakest, and where a Wisconsin voice would count for something.