

# STATUTORY HEIRS APPARENT?

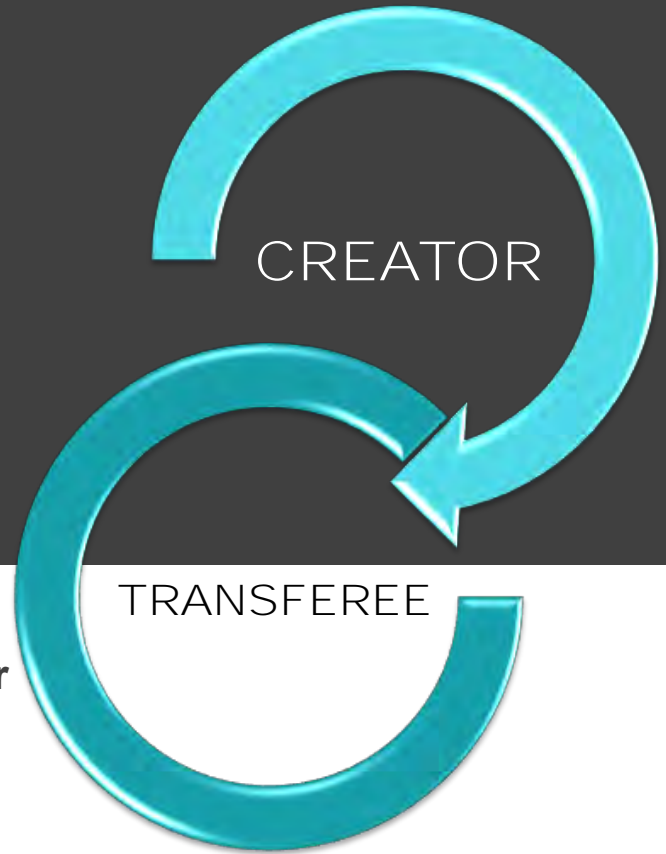
**Reclaiming  
Copyright in the Age  
of Author Controlled,  
Author Benefiting  
Transfers**

# Thesis

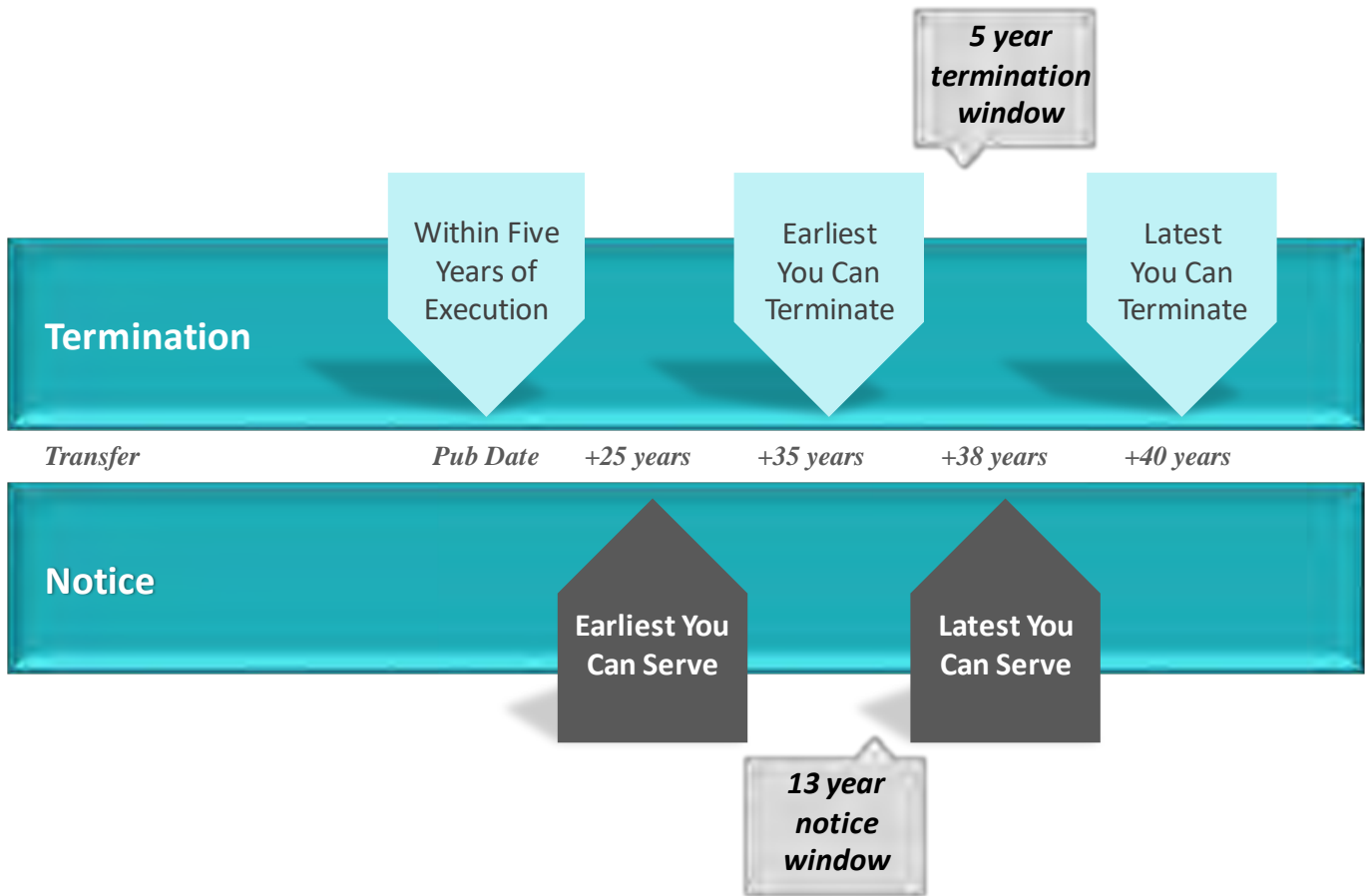
- **Congress should resolve an unintended conflict between copyright & succession laws**
- **An author's nonprobate copyright transfers deemed “author-controlled, author-benefitting” should (like testamentary transfers) not be subject to termination by statutory heirs**

## SUMMARY OF LAW

- Congress empowered authors to reclaim copyright ownership 35 years after transfer
- Termination right is nonwaivable and inalienable, but it is inheritable



# SUMMARY OF LAW



**“Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.”**

# Purpose of Termination Right

- **Difficult to determine value of a creative work**
- **Not strongest position to negotiate with labels**
- **Allows authors a second chance to entertain more lucrative or favorable exploitation**

# The Terminators

Bruce  
Springsteen



Loretta  
Lynn



Tom  
Petty



Village  
People



But some authors  
are not so fortunate



- **Created a private foundation funded solely by his royalties; designated it as sole heir in his will.**
- **Gave his 12 children irrevocable trusts after they waived any further right to his estate.**
- **After he died, 7 children promptly served notices of termination**



# Problem

- **When a statutory heir inherits right to terminate an author's lifetime transfers, heir can terminate *any* transfer**
- **Includes gratuitous transfers made by author**
- **Includes vehicles used for business, tax, privacy and estate planning reasons for the author's benefit not detriment**

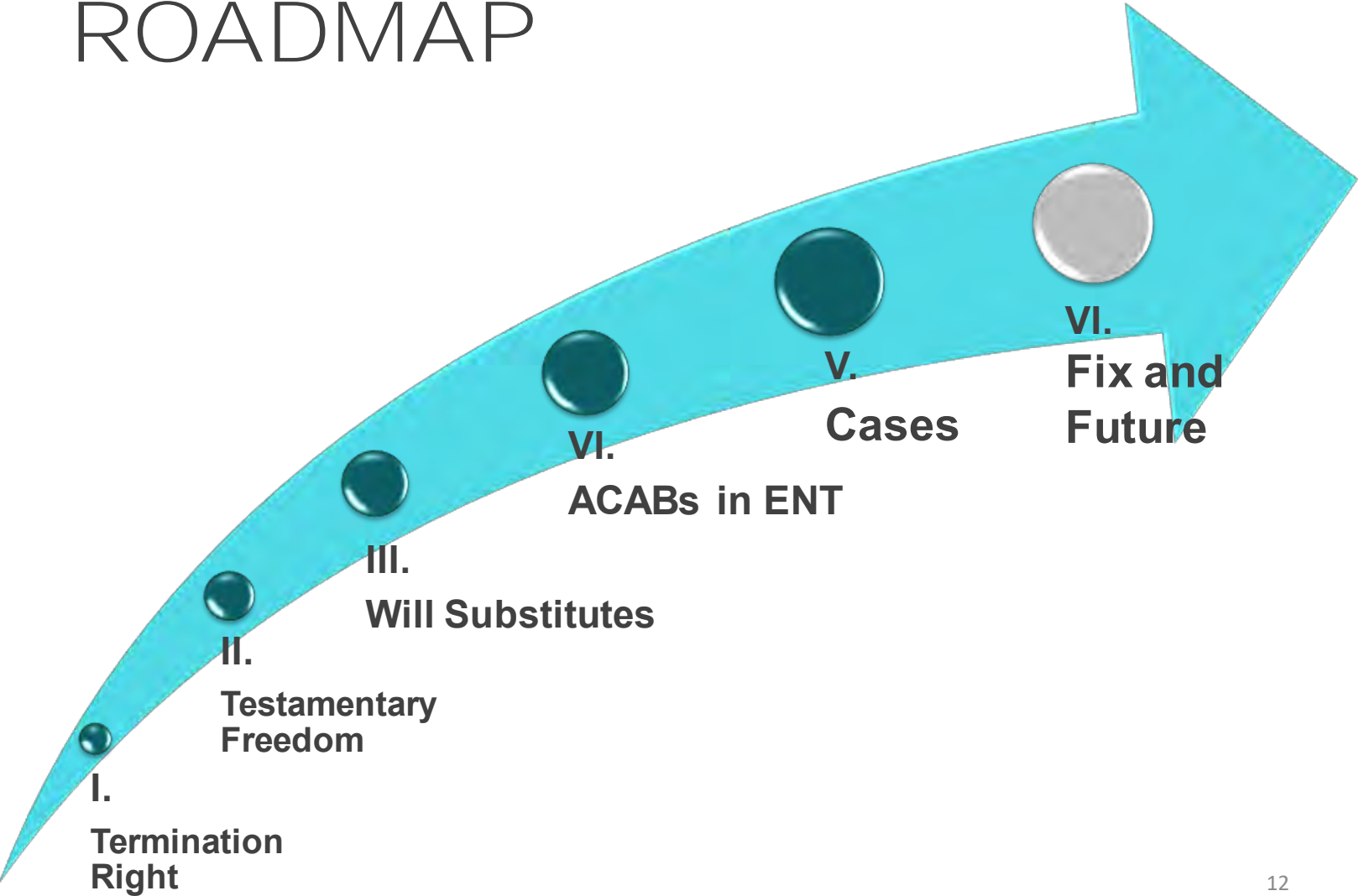
# If left unresolved

Disparate treatment between wills and will substitutes threatens to undermine author's testamentary freedom and intent to the extent will substitutes are used to accomplish what decedents used to accomplish primarily through wills.

# Solution

Congress should treat certain gratuitous author transfers in the same way that wills are treated by excepting them from transfer termination.

# ROADMAP



# Q&A

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