

United States Senate
WASHINGTON, DC 20510

September 28, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20510

Dear Leader Schumer:

I remain concerned about the Senate's ongoing prioritizing of legislation relaxing marijuana laws over legislation permanently scheduling Fentanyl Related Substances (FRS). As you know, our country is battling a historic fentanyl epidemic that continues to claim the lives of Americans, including children. On September 11, 2023, my office received letters from families grieving the loss of their loved ones to fentanyl. I have attached them for your review as you work to set the Senate's agenda. Each implores the Senate to turn its attention to FRS scheduling.

I received these letters from Lauri Badura. She lost her son Archie to fentanyl in 2014, while the nation was still reeling from the Oxycodone crisis. Two years after Archie's funeral, a boy who carried his casket died from a fentanyl overdose. Funeral homes started handing out the phone number for Archie's mom to other parents whose children died from fentanyl in her small Wisconsin community. Archie's story inspired class-wide scheduling of FRS, and his mom continues to advocate for the legislation. Unfortunately, the Senate has not acted, and just this month, the US Centers for Disease Control and Prevention estimated that 111,000 people died from a drug overdose in the 12-month period ending in April, a new record high.¹

Instead of addressing this crisis, the Senate appears to be turning its attention to legislation designed to ease the movement of marijuana money through the financial system, and provide access for Wall Street to invest billions of dollars into this industry. For years, the law enforcement community has raised serious concerns that the SAFE Banking Act and its progeny are a boon for the very cartels that are pumping fentanyl into our streets.² Despite its relation to Title 18, the legislation has largely bypassed the critical eyes of the Senate Judiciary Committee,

¹ Diedre McPhillips, *Overdose Deaths Continue to Rise in the US, Reaching Another Record Level*, *Provisional Data Shows*, CNN (Sept. 13, 2023), <https://www.cnn.com/2023/09/13/health/overdose-deaths-record-april-2023/index.html>.

² Letter from Former Directors of the Office of National Drug Control Policy to Senator Brown and Senator Scott (May 10, 2023), available at <https://learnaboutsam.org/wp-content/uploads/2023/05/Drug-Czar-SAFE-Banking-Letter-2023.pdf>; *Smart Approaches to Marijuana before the Senate Banking, Housing, and Urban Affairs Committee for a hearing titled Challenges for Cannabis and Banking: Outside Perspective*, 117th Cong. (2019) (testimony of Garth Can Meter).

and the current text does little to resolve the Justice Department's enforcement concerns.³ Further complicating matters, the Department of Health and Human Services (HHS) recently recommended to the Drug Enforcement Administration (DEA) that it reclassify marijuana as a Schedule III controlled substance, but the Senate has not considered the interplay between reclassification and the SAFE Banking Act.⁴ Even without this reclassification, Financial Crimes Enforcement Network (FinCEN) data showed that 807 banks and credit unions provided financial services to the marijuana industry in the first quarter of this year.⁵ Many of these service requests occurred in California, a state that serves as a cautionary tale for marijuana legalization. There, marijuana legalization "triggered a surge in illegal cannabis on a scale California has never before witnessed" and "criminal enterprises operate with near impunity."⁶ All the while, driver fatalities testing positive for drugs increased to half of all driver fatalities.⁷

Congress should develop tools to dismantle violent crime, fentanyl distribution networks, and the cartels. Instead, you are advancing legislation, now titled the "SAFER Banking Act," which could equip criminal actors with resources to expand their influence. I was disheartened to hear of your plan to "bring the SAFER Banking Act to the Senate floor with all due speed." I encourage you to abandon it and take up the worthy cause of FRS scheduling. As always, I remain eager to work with my Democrat and Republican colleagues to end the fentanyl epidemic.

Sincerely,



Charles E. Grassley

Enclosure: September 11, 2023 Letter from Lauri Badura to Senate Judiciary

³ DOJ Technical Assistance on H.R. 1996 The Secure and Fair Enforcement Banking Act of 2021, available at <https://punchbowl.news/wp-content/uploads/HR-1996-SAFE-Bank-Act-DOJ-TA-5.31.22.pdf>

⁴ Stefan Sykes, *U.S. Health Officials Want to Loosen Marijuana Restrictions. Here's What It Means*, CNBC (Aug. 31, 2023), <https://www.cnbc.com/2023/08/31/hhs-wants-to-reclassify-marijuana-what-it-means.html>.

⁵ Financial Crimes Enforcement Network, Marijuana Related Business Metrics, available at [Frequently Requested FOIA-Processed Records | FinCEN.gov](https://www.fincen.gov/foia-processed-records)

⁶ Paige St. John, *Promises Up In Smoke*, L.A. Times (Sep. 11, 2022), https://enewspaper.latimes.com/infinity/article_share.aspx?guid=fbafc31d-405d-45ea-a460-d03d42a6f540

⁷ California High Intensity Drug Trafficking Areas Report, *California Marijuana Impact Report 2022* https://thenmi.org/reports/California%20Marijuana_Impact_Report_2022_FINAL.pdf

September 11, 2023

The Honorable Richard Durbin
Chair, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lindsey Graham
Ranking, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Durbin and Graham,

On the heels of a White House forum in which I participated last week with other families to mark Overdose Awareness Week and in light of the strong bipartisan vote in the House in late May on H.R. 467, the Halt All Lethal Trafficking (HALT) of Fentanyl Act, I'm writing to urge swift action in the Senate to make permanent temporary scheduling of fentanyl related substances (FRS) into Schedule I of the Controlled Substances Act. A temporary order from the Drug Enforcement Agency (DEA) is in place, but only Congress can make it permanent.

As the mother of a son who died of fentanyl poisoning in 2014, I implore you to work with your colleagues on and off the Judiciary Committee to shut off, once and for all, the spigot that not only allowed FRS to enter our country legally, but actually incentivized their creation by Chinese chemists and drug cartels. Because of my son, Archie, and the desperate efforts of my dear friend Dr. Tim Westlake, who tried to keep him alive after an accidental overdose, you have before you bill language that passed the Wisconsin legislature on a unanimous vote, was adopted as national policy by the DEA, and which just passed the House of Representatives. Inaction in the Senate is no longer acceptable.

Absent your consideration, families like mine are holding our breath. We are filling gaps in care, confronting the stigma associated with substance use and mental health, and serving as resources for others in pain and mourning the loss of a loved one. Ending the stigma, expanding services, and finding ways that our community can support one another has become a personal passion and mission of mine. So too, working to advance legislation to **permanently** stop the flow of FRS into the United States.

I've heard the arguments of those opposed to this narrowly crafted fix that importantly solves one aspect of the brutal fight against fentanyl. None carry weight. The suggestion that passage will lead to increased incarceration is simply false. FRS class scheduling is the ultimate prevention tool: it disincentivizes foreign chemical companies from creating FRS in the first place. No one can be incarcerated for trafficking a substance that does not exist or die from ingesting a substance that was not created.

Opponents also claim permanent scheduling will limit opportunities to research new treatments. In fact, it's just the opposite. Few have chosen to conduct Schedule 1 research because of existing onerous

requirements. The House-passed legislation actually loosens research restrictions on all Schedule I drugs – drugs that hold promise of expanding critical psychiatric pharmaceutical treatment options. While permanent scheduling will not reduce demand for intoxicants, stopping the creation of new FRS has proven to save lives.

I am not alone in pushing for legislation. I invited a few others to share their stories and put a face to the names of those whose lives have been cut short due to fentanyl poisoning. For those of us who have lost a child, we will never see them graduate, walk down an aisle, hear them unlock the front door and yell, “Hey mom, what’s for dinner?”, or hold a child of their own. Some are siblings, friends, classmates, and more.

My goal in writing to you and sharing our collective stories is that you will listen and finally heed our pleas to pass legislation now that makes permanent the temporary scheduling of FRS. The House has acted. With each passing day, families across America are losing patience with Senate inaction. If not now, when?! With all due respect, if the Senate fails to move legislation that shuts off just one of the many spigots allowing fentanyl to cross our borders, how can we trust that Congress will ever get around to eliminating all the others?

For the sake of our children, now lost to us forever, *do something, please!*

Sincerely,

A handwritten signature in blue ink, appearing to read 'LMB', with a long horizontal flourish extending to the right.

Lauri Badura
Co-founder, Saving Others For Archie (SOFA)

cc: Senate Majority Leader Chuck Schumer
Senate Minority Leader Mitch McConnell
Senator Tammy Baldwin
Senator Ron Johnson

September 6, 2023

Dear Senators,

The continuous opioid crisis affecting America is changing families' lives each day. My life changed on May 14, 2014 when fentanyl robbed me of my only sibling, Archie, then 19 years old. Only what remains are photographs, memories, and some of his old clothes that I still wear which I feel brings him closer. It has been 9 long years and to think what I've selfishly missed is an everlasting wound that never seems to heal.

My brother Archie was and remains still, my very best friend. His soft chuckle and deep navy blue eyes made him contagious. He could converse with anyone, instantly made them feel important, and carried zero judgment about every human he encountered. We had brotherhood, a pact, a "brotherly" connection similar to what twins share. My heart has never felt whole since that tragic day. I realize his laughter, love, and friendship were true gifts. He was -- and will always be -- my greatest sidekick. Archie was strong and passionate about who and what he loved. His family and friends mattered to him the most. He kept loyalty to the highest standard and made sure others felt appreciated.

I don't want you to read this letter and hear it as just another story of someone who lost their life to addiction. We, as a country, are pleading for federal bipartisan consideration of the HALT Fentanyl Act. Rather than write letters to you about our deceased family members, we want day-to-day interactions with the ones we love. Yet, we write because this crisis, which has caused heartbreak across all demographic groups, has only worsened with time. I would never inflict the pain of losing a sibling on anyone and I will fight to keep my brother's death from being in vain. His life mattered! It is my hope that you recognize the severity of the problem and truly hear our voices and understand our pain.

Senators, I respectfully ask you to think of the ones you deeply love and who are close to your hearts and then, with great compassion, pursue passing this important legislation.

"Please come together as one nation under God, indivisible, with liberty and justice for all."

Kindly, August Badura



September 2023

Dear Senators,

As the mother of a 33-year-old son who died of fentanyl and Xylazine poisoning in October 2022, I implore you to work with your colleagues and shut off the spigot once and for all that not only allowed Fentanyl Related Substances (FRS) to enter our country legally, but incentivized their creation. You have before you bill language that passed the Wisconsin legislature on a unanimous vote, was adopted as national policy by the DEA, and which passed the House of Representatives earlier this summer. It's time for the Senate to act and make permanent temporary scheduling of FRS into Schedule I of the Controlled Substances Act.

Casey always struggled with some mental health issues starting with ADHD when he was eight years old and progressing to social anxiety and bad behavior. He was super intelligent and graduated high school with a 4.0 GPA. He got a Florida bright medallion scholarship to attend college. He was a classical pianist and also got a music scholarship. He got in a motorcycle wreck and was prescribed OxyContin. This began his addiction. He had gone eight years in remission with the help of medical assisted treatment by taking Suboxone. He made a decision to wean off of the Suboxone and his struggles really began then. He reached out to the detox crisis hotline -- the same one where he attended the buprenorphine clinic, so they knew his history, and they knew he had recently made the decision to get off the Suboxone. However, when he called them, begging for help that he needed help detoxing from the Suboxone, they basically sent him to his death by telling him he would need to "test positive" for a drug to get in. I feel this is a law that needs to be changed as well. When a person is reaching out for help, you don't tell them to go do drugs. So after eight years of not using anything but Suboxone, that is what he did, and ended up, getting murdered and poisoned with fentanyl and xylazine.

I miss my son terribly. I don't want to see any other families go through this, but yet we are losing 300 people a day. Something has to be done. My son did not want to die, he just wanted help. Casey #forever33

Sincerely, Kim Webster



September 2023

Dear Senators,

I am writing to you in hopes of convincing you to act on the legislation that passed the House of Representatives and is now before you for consideration. Please act to make permanent the temporary scheduling of Fentanyl Related Substances (FRS) INTO Schedule I of the Controlled Substances Act.

I am yet another grieving parent who lost an adult child to drug addiction, specifically opioids. Our beautiful 25-year-old son Danny was a talented artist, a funny and sensitive friend, a brother to his two siblings and a source of joy for his dad and me. What he will never be is a father, an uncle, a husband... the list goes on. When you lose a child, you not only lose what they were to you, but you also lose what they would have become. Danny died in 2012 and not a day goes by without the constant coping with that loss. It's a physical pain that I would not wish on my worst enemy.

The opioid crisis has hit so many families. Sadly, there are not a lot of success stories as so many of them end in death. There is a wave of destruction that affects the entire family. Everyone whose lives Danny touched will forever be affected by his death.

In addition to our personal tragedy, we have attended at least 3 funerals of young people who spoke at our son's funeral. They all thought they had managed their addictions, but eventually it pulled them back in. One died 8 years after Danny, and one died just last summer. The ripple effect on families and friends is horrifying.

PLEASE move this forward. It is time to change the direction of this wave.

Sincerely, Karen Jones



July 14, 2023

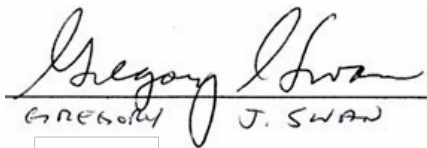
Dear Senators: **STOP THE SADNESS!!!**

As the father of my first born son who I lost - Drew Swan (DrewSwan.com), I urge you to act on the legislation that passed the Wisconsin legislature on unanimous vote, was adopted as a national policy by the Drug Enforcement Agency (DEA), passed the House of Representatives, and now sits before you to make permanent the temporary scheduling of Fentanyl Related Substances (FRS) into Schedule I of the Controlled Substances Act.

My son, Drew Swan, had an amazing love for life. He dreamed of becoming a successful businessman, or youth minister after graduating from the University of Wisconsin Milwaukee double majoring in Business and English. He wrote an amazing blog: <https://drewswan.wordpress.com/>. Drew was the straw that stirred our family drink. If he were alive today they would name a candy bar after him.

Today, I could be visiting my son's growing family, meeting my grandchildren and experiences the joy of laughing with my son; but instead, I'm left heart-broken visiting him at his gravesite in the cemetery next to the house where we grew up together like I did one week ago. To say that life has been a struggle without my son Drew would be a major understatement.

Since his passing in 2013, I've lost many more friends to fentanyl poisoning. The devastation this leaves on families around the country is unbearable. It is not only a huge loss to society, it leaves behind a broken family trying to find purpose out of life which seems a shadowed version of its previous self. Please act now to end the sadness. Do what you've been elected to do, and act on the HALT of Fentanyl Act you.


GREGORY J. SWAN

Sincerely,

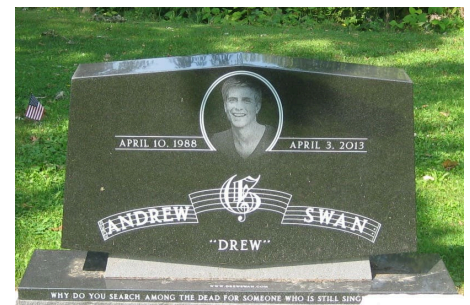
Greg Swan

Co-Founder - FentanylFathers.org

Fentanyl Fathers, Inc.

Surviving Father of Drew Swan

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July 14, 2023

Dear Senators:

As the only surviving sibling of a 24-year-old who lost his life to opioids, I urge you to act on the legislation that passed the Wisconsin legislature on unanimous vote, was adopted as a national policy by the Drug Enforcement Agency (DEA), passed the House of

Representatives, and now sits before you to make permanent the temporary scheduling of Fentanyl Related Substances (FRS) into Schedule I of the Controlled Substances Act.

My brother, Drew Swan, had an amazing vigor for life. He dreamed of becoming a successful businessman, or youth minister after graduating from the University of Wisconsin Milwaukee double majoring in Business and English. Growing up, I never cared about how popular I was or how many friends I had, because I always knew that I had him by my side. He was my best friend, closest confidant, and biggest cheerleader in life. Today, I could be visiting my brother's growing family, meeting my nieces and nephews, and experiences the joy of laughing with my brother; but instead, I'm left heart-broken visiting him at his gravesite in the cemetery next to the house where we grew up together like I did one week ago. To say that reimaging life has been a struggle without my brother would be an understatement. Since his passing in 2013, I've lost many more friends to fentanyl poisoning. The devastation this leaves on families around the country is unbearable. It is not only a huge loss to society, it leaves behind a broken family trying to find purpose out of life which seems a shadowed version of its previous self. Please act now to end the sadness. Do what you've been elected to do, and act on the HALT of Fentanyl Act that sits before you.

Sincerely,
Jack Swan
Fentanyl Fathers, Inc.
Surviving brother of Drew Swan

September 2023

Dear Senators:

As the mother of an 18-year-old son who died of fentanyl poisoning in December 2022, I implore you to work with your colleagues and shut off the spigot once and for all that not only allowed Fentanyl Related Substances (FRS) to enter our country legally, but incentivized their creation. Because of my friend Lauri Badura and her son Archie, you have before you bill language that passed the Wisconsin legislature on a unanimous vote, was adopted as national policy by the DEA, and which passed the House of Representatives earlier this summer. It's time for the Senate to act and make permanent temporary scheduling of FRS into Schedule I of the Controlled Substances Act.

Our son Owen was battling a severe mental illness, most likely schizophrenia, and had learned to self-medicate with drugs to subdue his symptoms as so many struggling with mental illness do. I found him 2 days after Christmas, hunched over a table in his bedroom where he had been snorting a line of cocaine the previous night. He did not ask for fentanyl to be added to that cocaine, and I can tell you for a fact he did not want to die. He was enrolled in a treatment program for both the mental illness as well as an AODA support group and all he needed was a little more time to get the medication and counseling sessions right. Owen was a son, a brother, a cousin, a nephew and a grandson and we all miss him every day. He will never get the chance to go to college, get married, or raise a family. We are still waiting, but at this point nothing has even been done with the dealer who supplied this deadly drug.

Becky Zingler



Letter to Congress

7/18/23

8:09 AM

Esteemed Senators,

I am writing to you as a surviving sibling of a 20- year- old woman who tragically lost her life to opioids. I implore you to take action on the legislation that has already received unanimous approval from the Wisconsin legislature, been endorsed as a national policy by the Drug Enforcement Agency (DEA), passed the house of Representatives, and now awaits your attention to permanently schedule Fentanyl Related Substances (FRS) into Schedule I of the Controlled Substances act.

Sylvia was always the entertainer, making everyone laugh and smile. She could make you laugh even on your darkest day. She had a heart for kids with special needs and took great joy in working with and building relationships with them. She had just started a job working with them just before she passed. Sylvia's smile and laugh were infectious, she brought joy to all those around her. She brought all of us a lifetime of laughter in such a short period of time. She cared for everyone and saw the best in every person she met. Sylvia befriended those who didn't have friends and stood up for people who didn't have a voice to do it themselves. She helped others without looking for recognition. Although her life here on Earth was short, she made a lasting impact on all those who knew her. Sylvia touched more lives than she ever realized. Since her passing my family has felt the pain of her absence at every family gathering including my wedding day and the birth of her two nephews; Pierce and Warner. Instead of knowing their Aunt they know her as their angel heaven. We miss her so much and would do most anything to have her back. Please consider passing this bill to save other families from this unimaginable pain that we feel every single day.



September 2023

Dear Senators, my name is Eileen McLeod-Fritz. I am the mother of 3 amazing young men, 2 still living in Wisconsin raising their children and one now residing in Heaven. I am thankful he had no children to leave behind.

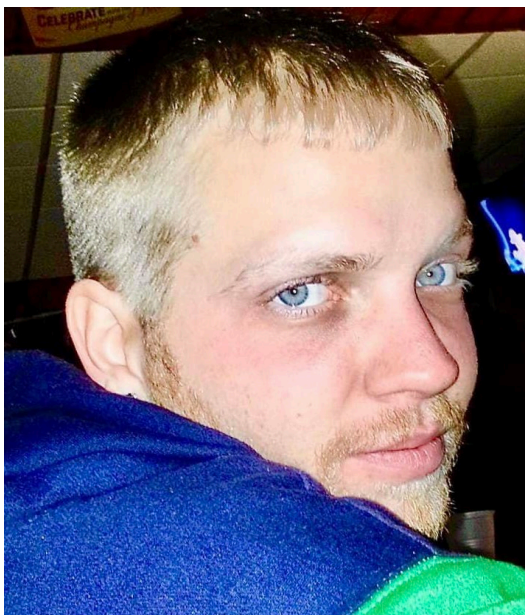
Terry Alexander Fritz was a wonderful person: smart, loving, loyal and sick. He had 8 surgeries in the first 14 years of his life which resulted in him suffering from Substance Use Disorder. Terry started using other people's pills, but when that became too expensive, he switched to Heroin.

I lost Terry to Heroin Toxicity Homicide at the age of 26 on October 1, 2014. He was found alone in his car, engine running, windows open, 27 miles from home. He was pronounced dead at the scene; we never spoke or hugged again. I miss my son every second of every day. I know his story is not unique or even seldom heard, but it is special, he was special, and his legacy will not die.

I am begging you all to think about the thousands of people that pass from this Epidemic. Are you aware we lose an average of 3,000 people every month in this country? Do you realize that one rare plane crash, involving 100-140 deaths every few years gets more screen time and sends many federal employees into action for months... almost always resulting in new laws, large monetary settlements and even loss of jobs. Yet, we are losing that many American citizens every day to an illness that has been all but ignored by our Federal Government.

We need stricter laws, better education, stronger oversight of the Pharmaceutical Industry and, of course, more attention paid to the real drug dealers, not the afflicted. You have legislation in front of you now that needs your immediate attention and action. In 2017, the Wisconsin legislature unanimously enacted Fentanyl Related Substances (FRS) class scheduling. Soon after, the DEA adopted it as National Policy. And, earlier this summer, the House of Representatives passed a bill to make permanent temporary scheduling of FRS into Schedule I of the Controlled Substances Act. I encourage you to follow the previously mentioned entities and make the temporary policy permanent. I look forward to watching this happen.

Thank You, Eileen McLeod-Fritz, Delafield, Wisconsin



July 14, 2023

Dear Senators,

As the grieving mother of a 24-year-old son who lost his life to the opioid epidemic, I urge you to act on the legislation that passed the Wisconsin legislature on unanimous vote, was adopted as a national policy by the Drug Enforcement Agency (DEA), passed the House of Representatives, and now sits before you to make permanent the temporary scheduling of Fentanyl Related Substances (FRS) into Schedule I of the Controlled Substances Act.

My first-born son, Drew Swan, taught me the truest definition of love. When I brought him into the world on April 10, 1988, I knew that God had gifted me the greatest gift in all the world. My precious son, he will be mine forever. He was so inquisitive about learning and had an amazing servant-hearted attitude. His charisma lit up rooms, and every walk of life was drawn to his energy. He always cheered me up and cheered me on, brought music and laughter to my life, and filled my heart with more love than I ever felt capable of. My beloved first-born son.

This summer I attended a few of Drew's younger cousins' weddings and all I could think was that I'll never know that joy of a mother-son dance at Drew's wedding. I've been stripped of grandchildren, and I'm left heart-broken visiting my boy at his tombstone in the cemetery next to the house where I raised him. No parent should ever have to endure this pain. Life is but a shadowed version of its previous self. No amount of action you take will ever return my son to me, but I implore you to act now in order to save other mothers from enduring this same devastation. Do what you've been elected to do, and vote on the HALT of Fentanyl Act that sits before you.

Sincerely,
Tamara Swan
Forever Grieving Mother of Drew Swan



September 2023

Dear Senators,

My name is Jody Wintheiser. On January 4, 2014, my world ended when I discovered my only child dead from an opiate overdose.

Samantha "Sammy" Grace Medinger was beautiful, kind, sassy, funny and wildly creative. In January of this year, I will be 10 years into my life sentence of grief. Anyone who says "it" gets better is lying. Sammy has missed weddings of her friends, holding their babies, and living the life she should have had if it hadn't ended at 24 years of age.

Since then, I have lost two more bonus children -- dear friends of Sammy's who had nurtured and supported me through this awful journey. They accompanied me to the sentencing of one of the people who supplied my daughter with drugs on the day she died. They both sat in front of me, sobbing at the loss of their friend. They both have since died of overdoses themselves. The last death was in 2022, and it was Fentanyl. There is a new killer in town, and incredibly, it is even more vicious than heroin.

I now have a memorial garden in my front yard for my daughter and a memorial garden in the backyard for my bonus daughter. Her two small children (my adopted grandchildren) helped me pick out stones and ornaments for their Mom's garden. They were 4 and 8 years old when she relapsed and took her last shot. Please pass this bill, so I don't have to build any more gardens.

Sincerely, Jody Wintheiser

