



**Rational Steps #9:  
A Tragedy Unfolding Before Our Eyes Demands Action  
SB 5010 Protects Our Youngest & Most Vulnerable Children**

*Welcome to the ninth installment of this series, which identifies and explores important issues facing our state and recommends workable policy solutions.*

- **Issue: “Sam’s Law.” “Zack’s Law.” “Oakley’s Law.”**

Frequently, when a tragic event occurs, we name legislation after a victim, in remembrance and with the intent of preventing future occurrences. But what happens when the tragedy is not an infrequent event, but rather is regularly adding another victim to the toll? What then?

This is not a theoretical question: Young children are dying, or nearly dying, at an unprecedented level due to accidental ingestion of fentanyl. And even worse? Unlike other tragedies, here the warning signs often abound – yet no action is taken.

- **Rational Step Toward a Better Washington: SB 5010 would add “fentanyl” to the crime of child endangerment with a controlled substance. It is a bipartisan common-sense measure to add to the toolbox to stem this tragedy and better protect our youngest and truly most vulnerable children.**

## A. The Unfolding and Growing Tragedy

While not nearly capturing the entire scope of the problem, one of the best ways to begin to get a handle on this tragedy is to look at data on “near fatalities/fatalities” of children who had prior recent contact with the child-welfare system.

It paints an alarming picture:

- Child Critical Incidents (Fatality/Near Fatality) – Nearly Triple Level from Five Years Ago<sup>1</sup>
- Opioid Ingestion/Overdose is the #1 Critical Incident Cause<sup>2</sup>
  - Twice as much as the second leading cause (blunt trauma)
- Nearly all drug-overdose incidents occur in children under school age, most often under the age of two<sup>3</sup>
- Warning signs abound: Here is a look at critical incidents from 2022 involving young children with multiple prior allegations of child abuse or neglect.<sup>4</sup>

Incident Type	Age	Cause of Fatality or Near Fatal Injury	Number of Prior Intakes
Near Fatality	9 mos	fentanyl ingestion	4
Near Fatality	3 yrs	fentanyl ingestion	57
Near Fatality	3 yrs	fentanyl ingestion	10
Fatality	3 yrs	fentanyl ingestion	2
Near Fatality	8 mos	fentanyl ingestion	8
Near Fatality	9 mos	fentanyl ingestion	4
Fatality	13 mos	fentanyl ingestion/OD	4
Near Fatality	23 mos	opioid /fentanyl ingestion	7
Near Fatality	8 mos	opioid /fentanyl ingestion	2
Fatality	12 mos	opioid /fentanyl ingestion	5
Near Fatality	18 mos	opioid /fentanyl ingestion	3
Near Fatality	4 yrs	opioid /fentanyl ingestion	18
Near Fatality	9 mos	opioid /fentanyl ingestion	10
Near Fatality	9 mos	opioid /fentanyl ingestion	13
Near Fatality	21 mos	opioid /fentanyl ingestion	4
Near Fatality	2 mos	opioid /fentanyl ingestion	3

Take a close look at that list: The young ages of the children, and the multiple, multiple prior intakes for allegations of abuse or neglect in such a short span of time – all culminating in either a near-death or death of that child due to fentanyl ingestion. It is appalling, tragic, and largely preventable.

## **B. Modeled on Law Put in Place 20 Years Ago by Renowned Child Advocate**

The crime of child endangerment with a controlled substance was created over 20 years ago with the unanimous support of the Legislature.<sup>5</sup>

The enabling legislation was prime-sponsored by then-Rep. (and now former Senator) Jeannie Darnielle, a Tacoma Democrat renowned as a child and family advocate. Her bipartisan bill made it a felony to “knowingly or intentionally permit a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine.”<sup>6</sup>

*The law has been in place for over 20 years, and over the past 10 years it has been used judiciously: 37 convictions, with 15 sentenced to prison and 21 receiving other consequences; a significant portion of those were given alternative sentences, either the drug offender sentencing alternative or first-time offender waiver.*<sup>7</sup>

SB 5010 would simply add fentanyl to the list of controlled substances for which knowing or intentional exposure to a dependent constitutes criminal child endangerment.

## **C. Overwhelming Bipartisan Support**

SB 5010 has passed the Senate with overwhelming bipartisan support in each of the past two sessions.<sup>8</sup> It has also been endorsed this year by the Legislature’s bicameral, bipartisan Public Safety Caucus.<sup>9</sup>

## **D. Endorsed by Those Who See Harm Daily**

As policymakers, I believe we should put a lot of stock into the advice given by those with “boots on the ground” experience who confront these issues regularly and witness the tragedies firsthand.

And, in this case, prosecutors across the political spectrum, along with law enforcement, support this measure to better protect children.<sup>10</sup> As a law-enforcement advocate for the measure puts it:

“Exposing children to fentanyl presents a clear and present danger to the most vulnerable among us. The Legislature must act now. Adults who choose to use fentanyl cannot make the same choice for children. SB 5010 does not punish parents – it protects children.

Washington’s law enforcement officers and other first responders have seen, firsthand, the effects of a child who consumes fentanyl. We are confident that any legislator who shares these memories would also support SB 5010.”<sup>11</sup>

As noted in a Feb. 13 editorial in The Seattle Times, the Seattle city attorney and the King County prosecutor also urged passage of the bill, in a letter to lawmakers.<sup>12</sup>

## **E. Learn from Lessons of the Past**

The consequences of legislative inaction can often be tragic.

In 2018 and 2019, legislators did not pass a bipartisan measure that would have allowed the electronic monitoring of domestic-violence perpetrators. The farthest the bill got was unanimous support from the Senate in its first year.<sup>13</sup>

On Nov. 26, 2019, a 35-year-old Vancouver resident and former Marine Corps sergeant, Tiffany Hill, was shot dead while in a car with her three children and her mother, parked at their elementary school in Clark County. The killer was her estranged husband, who had waited in the parking lot for 20 minutes before fatally ambushing her and wounding her mother. He fled and later died of a self-inflicted gunshot after a police pursuit.<sup>14</sup>

Tiffany Hill had obtained a restraining order two months before she was murdered but had no way of being notified in a timely manner when it was being violated. Had the Legislature acted in 2018 or 2019 to enable real-time victim-notification technology, she likely would have been alerted in time to call law enforcement, warn the school about the danger, and take steps to protect herself and her family. In 2020, Tiffany Hill’s story illustrated the need for lawmakers to act. Senate Bill 5149, now renamed the Tiffany Hill Act, was passed unanimously and became law.

With SB 5010, legislators have an opportunity for action that could prevent a tragedy, instead of waiting as happened in the case of Tiffany Hill.

## **F. Another Tool to Protect Our Most Vulnerable Children**

As noted earlier, this proposal is modeled on legislation in place for over 20 years in our state. During that time, usage of the child-endangerment law has been judicious, as prosecutors and law enforcement are well-attuned to the often-complex issues involved.

But, whether as a scalpel to induce a parent into substance-use treatment, or as a hammer for the truly egregious danger to a child's well-being, SB 5010 belongs in the toolbox to address the tragedy in our midst.

### **Conclusion**

**SB 5010 is a bipartisan, common-sense measure to better protect our youngest and most vulnerable children.**

### **Footnotes**

1. Dept of Children Youth and Families email 1/25/24. 51 critical incidents in 2023. Prior years: 45 in 2022; 30 in 2021; 28 in 2020; 24 in 2019; and 22 in 2018.
2. Dept of Children Youth and Families email 1/13/24, containing 2022 data.
3. Id.
4. Id.
5. HB 2610 (2002), <https://lawfilesexternal.wa.gov/biennium/2001-02/Pdf/Bills/Session%20Laws/House/2610-S.SL.pdf?cite=2002%20c%20229%20C2%A7%201>
6. Id.
7. Review of Adult Felony Sentencing (2014-23), Caseload Forecast Council. <https://cfc.wa.gov/publications>
8. <https://app.leg.wa.gov/bills/summary?BillNumber=5010&Year=2023&Initiative=false>
9. <https://lyndawilson.src.wastateleg.org/wp-content/uploads/sites/38/2024/02/PSC-Hearing-Request-Letter.pdf>
10. Jan. 12, 2024 letter from Seattle City Attorney & King County Prosecuting Attorney in support of SB 5010.
11. Feb. 13, 2024 letter from Washington Association of Sheriffs and Police Chiefs.
12. <https://www.seattletimes.com/opinion/editorials/add-fentanyl-to-child-endangerment-law/>
13. <https://app.leg.wa.gov/bills/summary?BillNumber=6292&Year=2017&Initiative=false> and <https://app.leg.wa.gov/bills/summary?BillNumber=5149&Year=2023&Initiative=false>
14. <https://nypost.com/2019/11/29/washington-mom-murdered-by-estranged-husband-in-front-of-three-kids-mother/>