

FIRST REGULAR SESSION

# HOUSE BILL NO. 1224

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MOON.

2557L.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To amend chapter 210, RSMo, by adding thereto ten new sections relating to newborn safety incubators, with a penalty provision.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 210, RSMo, is amended by adding thereto ten new sections, to be known as sections 210.975, 210.977, 210.979, 210.981, 210.983, 210.985, 210.987, 210.989, 210.991, and 210.993, to read as follows:

**210.975. As used in sections 210.975 to 210.993, the following terms shall mean:**

**(1) "Department", the department of health and senior services;**

**(2) "Emergency medical services provider", a firefighter, a law enforcement officer, a paramedic, an emergency medical technician, a physician licensed under chapter 334, a nurse licensed under chapter 335, or any other person who provides emergency medical services in the course of the person's employment;**

**(3) "Facility", a building in which one or more of the following are located:**

**(a) A hospital licensed under chapter 197;**

**(b) A fire department or volunteer fire department;**

**(c) A law enforcement agency;**

**(d) A nonprofit corporation described in paragraph (d) of subdivision (6) of this section;**

**(4) "Newborn", a child who is less than thirty-one days of age;**

**(5) "Newborn safety incubator", a device that is designed to permit:**

**(a) A person to anonymously place a newborn in the device with the intent to leave the newborn; and**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (b) Another person to remove the newborn from the device and take custody of the  
18 newborn;

19 (6) "Qualified service provider", any of the following:

20 (a) A hospital licensed under chapter 197;

21 (b) A fire department or volunteer fire department;

22 (c) A law enforcement agency;

23 (d) A nonprofit corporation that:

24 a. Has been in existence for at least ten years;

25 b. Is qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code  
26 of 1986, as amended; and

27 c. Has one or more of the following as its exempt purpose:

28 (i) Child welfare;

29 (ii) Religion;

30 (iii) Domestic violence prevention or intervention.

210.977. 1. No person shall install or operate a newborn safety incubator unless the  
2 person is a qualified service provider that meets the standards and protocols adopted by  
3 the department of health and senior services under sections 210.975 to 210.993.

4 2. A qualified service provider that installs a newborn safety incubator in a facility  
5 of the qualified service provider shall register with the department.

210.979. 1. Beginning January 1, 2016, a qualified service provider that meets the  
2 standards and protocols adopted by the department under sections 210.975 to 210.993 may  
3 operate a newborn safety incubator in the facility of the qualified service provider for the  
4 purpose of taking custody of a newborn who is voluntarily left in the newborn safety  
5 incubator.

6 2. The department of health and senior services shall promulgate rules to do the  
7 following concerning the standards and protocols for the installation and operation of  
8 newborn safety incubators:

9 (1) Establish the following requirements:

10 (a) Sanitation standards;

11 (b) Procedures to provide emergency care for a newborn left in a newborn safety  
12 incubator;

13 (2) Establish requirements for the newborn safety incubator, including but not  
14 limited to the following:

15 (a) Manufacturing or manufacturer standards;

16 (b) Design and function requirements, including that the newborn safety incubator  
17 satisfies all the following:

- 18           **a. Is accessible from the exterior of a facility;**  
19           **b. Allows a newborn to be placed anonymously in the newborn safety incubator**  
20 **from outside the facility;**  
21           **c. The door or window of the newborn safety incubator that allows access outside**  
22 **the facility automatically locks after a newborn is placed in the newborn safety incubator;**  
23           **d. A person outside the facility is unable to access the newborn safety incubator**  
24 **after a newborn has been placed in the newborn safety incubator;**  
25           **e. Provides a controlled environment for the care and protection of the newborn,**  
26 **including temperature, humidity, and oxygen controls;**  
27           **f. Has a signal that notifies an emergency medical services provider within thirty**  
28 **seconds of a newborn being placed in the newborn safety incubator;**  
29           **g. Is accessible to an emergency medical services provider inside the facility;**  
30           **(3) Prescribe the operating policies, supervision, and maintenance of the newborn**  
31 **safety incubator, including but not limited to requiring that only an emergency medical**  
32 **services provider supervise the newborn safety incubator and take custody of a newborn;**  
33           **(4) Establish procedures for the registering of qualified service providers that**  
34 **install newborn safety incubators;**  
35           **(5) Prescribe the procedures and standards for inspections of the newborn safety**  
36 **incubator;**  
37           **(6) Establish any other criteria the department deems necessary to ensure the safety**  
38 **and welfare of a newborn placed in a newborn safety incubator.**

210.981. 1. A qualified service provider that installs a newborn safety incubator  
2 shall submit a completed registration form on a form prepared by the department that  
3 contains the information required by the department.

4           **2. The department may impose a reasonable registration fee to cover the cost of**  
5 **processing the registration.**

6           **3. A service provider's registration for a newborn safety incubator:**

- 7           **(1) Shall be renewed annually;**  
8           **(2) Is not assignable or transferable;**  
9           **(3) Is issued only for the facility named on the registration form; and**  
10           **(4) May be renewed each year upon the payment of a renewal fee in an amount**  
11 **established by the department.**

210.983. A qualified service provider shall post a sign next to the qualified service  
2 provider's newborn safety incubator that reads: "NEWBORN SAFETY INCUBATOR.  
3 ONLY FOR NEWBORNS LESS THAN 31 DAYS OF AGE. PLACING ANY OTHER

4 **ITEM OR INDIVIDUAL IN THIS INCUBATOR IS A CLASS A MISDEMEANOR**  
5 **PUNISHABLE BY A CONFINEMENT OF UP TO ONE YEAR AND A FINE."**

210.985. 1. If a qualified service provider ceases operating a newborn safety  
2 incubator, the qualified service provider shall notify the department not later than ten days  
3 after the date the qualified service provider ceases using the newborn safety incubator, and  
4 shall remove the newborn safety incubator and the sign described in section 210.983.

5 2. If a qualified service provider notifies the department under subsection 1 of this  
6 section, the department shall remove the qualified service provider's registration from the  
7 registry.

210.987. The director of the department may take any of the following actions for  
2 a violation of any provision of sections 210.975 to 210.993 or the rules promulgated  
3 thereunder:

4 (1) Issue a letter of correction;

5 (2) Conduct a reinspection;

6 (3) Impose an administrative penalty in an amount not to exceed ten thousand  
7 dollars.

210.989. 1. Any person who meets the standards and protocols adopted under  
2 subsection 2 of section 210.979 and is registered under sections 210.975 to 210.993 shall not  
3 be civilly liable for any act or omission relating to:

4 (1) The installation or operation of a newborn safety incubator; or

5 (2) The removal of a newborn from a newborn safety incubator

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7 unless the act or omission constitutes gross negligence or willful or wanton misconduct.

8 2. The removal of an item or an individual other than a newborn from a newborn  
9 safety incubator by an emergency medical services provider does not constitute a violation  
10 of sections 210.975 to 210.993.

210.991. The department of health and senior services may promulgate rules to  
2 implement the provisions of sections 210.975 to 210.993. Any rule or portion of a rule, as  
3 that term is defined in section 536.010, that is created under the authority delegated in  
4 sections 210.975 to 210.993 shall become effective only if it complies with and is subject to  
5 all of the provisions of chapter 536 and, if applicable, section 536.028. Sections 210.975 to  
6 210.993 and chapter 536 are nonseverable and if any of the powers vested with the general  
7 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
8 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
9 authority and any rule proposed or adopted after August 28, 2015, shall be invalid and  
10 void.

**210.993. Any person who intentionally installs or operates a newborn safety  
2 incubator in violation of the standards and protocols set forth in sections 210.975 to  
3 210.993 is guilty of a class A misdemeanor, unless the violation results in bodily injury to  
4 a newborn in which event the violation is a class D felony until December 31, 2016, and a  
5 class E felony beginning January 1, 2017.**

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