



Ohio Administrative Code

Rule 3701-86-03 Location, environment, and supervision of a newborn safety incubator.

Effective: February 1, 2024

(A) In accordance with section 2151.3517 of the Revised Code, newborn safety incubators can only be installed at locations of the following entities:

- (1) Law enforcement agency;
- (2) Hospital registered pursuant to section 3701.07 of the Revised Code; or
- (3) Emergency medical service organization.

(B) Each location where a newborn safety incubator is installed will have:

(1) At least one individual authorized by section 2151.3517 of the Revised Code and outlined in paragraph (F) of this rule present and on duty in the facility at all times, twenty four hours a day, seven days a week to take possession of a surrendered child; or

(2) An alternate peace officer, peace officer support employee, hospital employee, or emergency medical service worker who is dispatched by a secondary alarm that triggers a 9-1-1 call, in accordance with division (A)(1)(f) of section 2151.3532 of the Revised Code, when either of the following is the case:

(a) No individual described in paragraph (B)(1) of this rule who is present at the facility responds within a reasonable amount of time after a child is placed in the incubator; or

(b) Every individual described in section 2151.3517 of the Revised Code who is scheduled to work at the facility when a parent places a child into the incubator has been dispatched on an emergency call.

(C) Each location where a newborn safety incubator is installed will post signage that clearly identifies the newborn safety incubator access portal door and provides both written and pictorial



instruction to the surrendering parent to:

- (1) Open the access portal door;
 - (2) Place the infant inside the medical bassinet; and
 - (3) Close the access portal door to engage the lock.
- (D) The newborn safety incubator access portal door may only be installed:
- (1) On an exterior wall of an authorized facility listed in paragraph (A) of this rule that:
 - (a) Ensures anonymity of the surrendering parent;
 - (i) Notwithstanding division (A) of section 2151.3526 of the Revised Code, and paragraph (D)(1)(a) of this rule, video surveillance is permitted at the facility where the incubator is located. The surveillance footage may be reviewed only when:
 - (a) A child has been surrendered under the circumstances described in division (B) of section 2151.3526 of the Revised Code; or
 - (b) There is reason to believe a crime has been committed within view of the video surveillance system.
 - (b) Provides access to an area within the interior of the building that provides:
 - (i) A climate controlled environment, including temperature control within the range of seventy-one to eighty-one degrees; and
 - (ii) Air circulation that is free from pollutants, exhaust, chemical fumes, and smoke.
 - (2) In a manner that provides unencumbered access from the exterior of the building through the access portal door for the surrender of the child into the medical bassinet.



(E) The placement of the newborn safety incubator access portal door and medical bassinet within the interior of the building will provide unencumbered access to the medical bassinet for an authorized individual, as outlined in paragraph (F) of this rule, responding to the alarm notification that a child has been surrendered into the newborn safety incubator.

(F) Only the following persons, while acting in an official capacity, will take possession of a child who is thirty days old or younger, from a newborn safety incubator:

- (1) A peace officer on behalf of the law enforcement agency that employs the officer;
- (2) A peace officer support employee as defined in section 2151.3515 of the Revised Code;
- (3) A hospital employee on behalf of the hospital that has granted the person privilege to practice at the hospital or that employs the person; or
- (4) An emergency medical service worker on behalf of the emergency medical service organization that employs the worker or for which the worker provides services.

(G) Upon taking possession of a surrendered child from a newborn safety incubator, the law enforcement agency, hospital, or emergency medical service organization will act in accordance with the requirements of section 2151.3517 of the Revised Code.

(H) A person authorized by section 2151.3517 or section 2151.3515 of the Revised Code to take possession of a child is not liable for damages in a civil action for injury, death, or loss to person or property resulting from the person's failure to respond within a reasonable amount of time after a child is placed in the incubator or after the person is dispatched by a secondary alarm, unless that failure constitutes willful or wanton misconduct.