

2017 Regular Session

HOUSE BILL NO. 93

BY REPRESENTATIVE MIGUEZ

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LAW ENFORCE/OFFICERS: Authorizes an immediate family member of a qualified law enforcement officer to purchase his duty firearm upon death

1 AN ACT

2 To amend and reenact R.S. 11:1307(B), 2185, and 2235 and to enact R.S. 40:1665.4, relative  
3 to law enforcement officers; to authorize an immediate family member of a qualified  
4 law enforcement officer to purchase his duty firearm upon death; to provide for  
5 certain criteria; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 11:1307(B), 2185, and 2235 are hereby amended and reenacted to  
8 read as follows:

9 §1307. Persons eligible to retire on basis of service and age; retirement benefits

10 \* \* \*

11 B.(1) Any member of the system who is a commissioned member of the  
12 office of state police who has at least twenty years of active service and who retires  
13 under the provisions of this Section shall be entitled to purchase his firearm at fair  
14 market value, upon retirement, subject to the approval of the deputy secretary of  
15 public safety services of the department. If the qualifying member was unable to  
16 purchase his firearm prior to his death, an immediate family member listed in  
17 Paragraph (2) of this Subsection has the right of first refusal to purchase the firearm  
18 unless the immediate family member is prohibited from possessing a firearm under  
19 the provisions of R.S. 14:95.1 or any other state or federal law.

1           (2) Unless the deceased officer has designated a specific immediate family  
2           member as the beneficiary to purchase his firearm upon his death, the following  
3           immediate family members have the right of first refusal to purchase the firearm in  
4           the following order of precedence:

5                   (a) The surviving spouse of the deceased officer.

6                   (b) A child of the deceased officer. If more than one child seeks to purchase  
7           the firearm, the oldest child who seeks to purchase the firearm precedes all other  
8           children who seek to purchase the firearm in the right of first refusal.

9                   (c) A parent of the deceased officer.

10                  (d) A sibling of the deceased officer. If more than one sibling seeks to  
11           purchase the firearm, the oldest sibling who seeks to purchase the firearm precedes  
12           all other siblings who seek to purchase the firearm in the right of first refusal.

13                  (3) If the firearm is part of an ongoing investigation or is being used or is  
14           needed as evidence, the provisions of this Subsection do not apply until the firearm  
15           is no longer part of the investigation or is longer needed or being used as evidence.  
16           In such case, the immediate family member with the right of first refusal to purchase  
17           the firearm may request the release of the firearm pursuant to R.S. 15:41.

18   \*       \*       \*

19           §2185. Retirement; purchase of firearm

20                   A. Any sheriff or deputy sheriff who retires with at least sixteen years of  
21           active service and who is in good standing with the Louisiana Sheriffs' Pension and  
22           Relief Fund shall be entitled to purchase his firearm at fair market value upon  
23           retirement, subject to approval by the sheriff. If the qualifying sheriff or deputy  
24           sheriff was unable to purchase his firearm prior to his death, an immediate family  
25           member listed in Subsection B of this Section has the right of first refusal to  
26           purchase the firearm unless the immediate family member is prohibited from  
27           possessing a firearm under the provisions of R.S. 14:95.1 or any other state or federal  
28           law.

1           B. Unless the deceased sheriff or deputy sheriff has designated a specific  
2           immediate family member as the beneficiary to purchase his firearm upon his death,  
3           the following immediate family members have the right of first refusal to purchase  
4           the firearm in the following order of precedence:

5                   (1) The surviving spouse of the deceased sheriff or deputy sheriff.

6                   (2) A child of the deceased sheriff or deputy sheriff. If more than one child  
7                   seeks to purchase the firearm, the oldest child who seeks to purchase the firearm  
8                   precedes all other children who seek to purchase the firearm in the right of first  
9                   refusal.

10                  (3) A parent of the deceased sheriff or deputy sheriff.

11                  (4) A sibling of the deceased sheriff or deputy sheriff. If more than one  
12                  sibling seeks to purchase the firearm, the oldest sibling who seeks to purchase the  
13                  firearm precedes all other siblings who seek to purchase the firearm in the right of  
14                  first refusal.

15           C. If the firearm is part of an ongoing investigation or is being used or is  
16           needed as evidence, the provisions of this Subsection do not apply until the firearm  
17           is no longer part of the investigation or is longer needed or being used as evidence.  
18           In such case, the immediate family member with the right of first refusal to purchase  
19           the firearm may request the release of the firearm pursuant to R.S. 15:41.

20   \*       \*       \*

21           §2235. Retirement; purchase of firearm

22           A. Any municipal police officer who retires with at least twenty years of  
23           active service and who is in good standing with the Municipal Police Employees'  
24           Retirement System shall be entitled to purchase his firearm at fair market value upon  
25           retirement, subject to approval by the chief of police. If the qualifying municipal  
26           police officer was unable to purchase his firearm prior to his death, an immediate  
27           family member listed in Subsection B of this Section has the right of first refusal to  
28           purchase the firearm unless the immediate family member is prohibited from

1 possessing a firearm under the provisions of R.S. 14:95.1 or any other state or federal  
2 law.

3 B. Unless the deceased officer has designated a specific immediate family  
4 member as the beneficiary to purchase his firearm upon his death, the following  
5 immediate family members have the right of first refusal to purchase the firearm in  
6 the following order of precedence:

7 (1) The surviving spouse of the deceased officer.

8 (2) A child of the deceased officer. If more than one child seeks to purchase  
9 the firearm, the oldest child who seeks to purchase the firearm precedes all other  
10 children who seek to purchase the firearm in the right of first refusal.

11 (3) A parent of the deceased officer.

12 (4) A sibling of the deceased officer. If more than one sibling seeks to  
13 purchase the firearm, the oldest sibling who seeks to purchase the firearm precedes  
14 all other siblings who seek to purchase the firearm in the right of first refusal.

15 C. If the firearm is part of an ongoing investigation or is being used or is  
16 needed as evidence, the provisions of this Subsection do not apply until the firearm  
17 is no longer part of the investigation or is longer needed or being used as evidence.  
18 In such case, the immediate family member with the right of first refusal to purchase  
19 the firearm may request the release of the firearm pursuant to R.S. 15:41.

20 Section 2. R.S. 40:1665.4 is hereby enacted to read as follows:

21 §1665.4. Duty firearm of law enforcement officer killed in line of duty

22 A. An immediate family member listed in Subsection B of this Section of a  
23 law enforcement officer as defined by R.S. 40:1665.2(B)(1),(2), and (3) who suffers  
24 death as a result of an injury arising out of and in the course of the performance of  
25 his official duties as a law enforcement officer has the right of first refusal to  
26 purchase his duty firearm at fair market value, subject to the approval of the head of  
27 the law enforcement agency, unless the family member is prohibited from possessing  
28 a firearm under the provisions of R.S. 14:95.1 or any other state or federal law.

1           B. Unless the deceased officer has designated a specific immediate family  
2           member as the beneficiary to purchase his firearm upon his death, the following  
3           immediate family members have the right of first refusal to purchase the firearm in  
4           the following order of precedence:

5                     (1) The surviving spouse of the deceased officer.

6                     (2) A child of the deceased officer. If more than one child seeks to purchase  
7           the firearm, the oldest child who seeks to purchase the firearm precedes all other  
8           children who seek to purchase the firearm in the right of first refusal.

9                     (3) A parent of the deceased officer.

10                    (4) A sibling of the deceased officer. If more than one sibling seeks to  
11           purchase the firearm, the oldest sibling who seeks to purchase the firearm precedes  
12           all other siblings who seek to purchase the firearm in the right of first refusal.

13                    C. If the firearm is part of an ongoing investigation or is being used or is  
14           needed as evidence, the provisions of this Subsection do not apply until the firearm  
15           is no longer part of the investigation or is longer needed or being used as evidence.  
16           In such case, the immediate family member with the right of first refusal to purchase  
17           the firearm may request the release of the firearm pursuant to R.S. 15:41.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 93 Reengrossed

2017 Regular Session

Miguez

**Abstract:** Authorizes an immediate family member of a qualified law enforcement officer to purchase his duty firearm upon his death.

Present law provides that any qualifying state trooper, sheriff, deputy sheriff, or municipal police officer shall be entitled to purchase his firearm at fair market value upon retirement and subject to the approval of the head of the law enforcement agency.

Proposed law retains present law and allows an immediate family member to purchase the firearm on behalf of a qualifying state trooper, sheriff, deputy sheriff, or municipal police officer, if the member was unable to do so prior to his death.

Proposed law also allows an immediate family member of a state trooper, sheriff, deputy sheriff, or municipal police officer killed in the line of duty to purchase his duty firearm at fair market value subject to the approval of the head of the law enforcement agency.

Proposed law prohibits an immediate family member from purchasing the firearm on behalf of the state trooper, sheriff, deputy sheriff, or municipal police officer if the immediate family member is prohibited from possessing a firearm under any state or federal law.

Proposed law allows the qualifying officer to designate a specific immediate family member as the beneficiary to purchase his firearm upon his death. Proposed law further provides that if no beneficiary is designated, then the following immediate family members have the right of first refusal to purchase the duty firearm in the following order of precedence:

- (1) The surviving spouse.
- (2) A child of the deceased officer. If multiple children, then the oldest child shall have the right of first refusal.
- (3) A parent of the deceased officer.
- (4) A sibling of the deceased officer. If multiple siblings, then the oldest sibling shall have right of first refusal.

Proposed law provides that if the duty firearm is part of an ongoing investigation or is being used or needed as evidence, then the firearm may not be sold or transferred to an immediate family member until the firearm is no longer part of the investigation or needed or being used as evidence. Proposed law further provides that the immediate family member with the right of first refusal to purchase the firearm may request the release of the firearm pursuant to present law (R.S. 15:14).

(Amends R.S. 11:1307(B), 2185, and 2235; Adds R.S. 40:1665.4)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Expand proposed law to authorize an immediate family member to purchase the firearm of a qualified sheriff, deputy sheriff, or municipal police officer who was unable to do so prior to his death.
2. Prohibit an immediate family member from purchasing the firearm if the immediate family member is prohibited from possession of a firearm under any present law, state law, or federal law.
3. Provide that if more than one immediate family member seeks to purchase the firearm, the oldest immediate family member who seeks to purchase the firearm shall be entitled to do so.

#### The House Floor Amendments to the engrossed bill:

1. Remove requirement that if more than one immediate family member seeks to purchase the firearm, the oldest immediate family member who seeks to purchase the firearm shall be entitled to do so.
2. Allow the qualifying officer to designate a specific immediate family member as the beneficiary to purchase his firearm upon his death.
3. Require that if no beneficiary is designated by the deceased officer, then the following immediate family members have the right of first refusal to purchase the duty firearm in the following order of precedence:

- (a) The surviving spouse.
  - (b) A child of the deceased officer. If multiple children, then the oldest child shall have the right of first refusal.
  - (c) A parent of the deceased officer.
  - (d) A sibling of the deceased officer. If multiple siblings, then the oldest sibling shall have right of first refusal.
4. Add that if the duty firearm is part of an ongoing investigation or is being used or needed as evidence, then the firearm may not be sold or transferred to an immediate family member until the firearm is no longer part of the investigation or needed or being used as evidence.
  5. Allow an immediate family member with the right of first refusal to purchase the firearm to request the release of the firearm pursuant to present law (R.S. 15:14).
  6. Make technical amendments.