



LOUISIANA STATE LAW INSTITUTE

PAUL M. HEBERT LAW CENTER, ROOM W127

1 EAST CAMPUS DRIVE

BATON ROUGE, LA 70803

OFFICE OF
THE DIRECTOR

(225) 578-0200

FAX: (225) 578-0211

EMAIL: LAWINSTITUTE@LSLI.ORG

May 6, 2024

Senator Cameron Henry
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Representative Phillip R. DeVillier
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

**RE: SENATE CONCURRENT RESOLUTION NO. 138 OF THE 2019 REGULAR
SESSION**

Dear Mr. President and Mr. Speaker:

The Louisiana State Law Institute respectfully submits its report to the legislature relative to interviewing crime victims and witnesses.

Sincerely,

A handwritten signature in blue ink, appearing to read "Guy Holdridge".

Guy Holdridge
Director

GH/pc

Enclosure

cc: Senator Jean-Paul Coussan

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.gov

Secretary of State, Ms. Nancy Landry
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
CODE OF CRIMINAL PROCEDURE COMMITTEE**

**REPORT IN RESPONSE TO SENATE CONCURRENT
RESOLUTION NO. 138 OF THE 2019 REGULAR SESSION**

Relative to interviewing crime victims and witnesses

Prepared for the
Louisiana Legislature on

May 6, 2024

Baton Rouge, Louisiana

LOUISIANA STATE LAW INSTITUTE CODE OF CRIMINAL PROCEDURE COMMITTEE

King Alexander	Lake Charles
Sue Bernie	Baton Rouge
Kyla M. Blanchard-Romanach	Baton Rouge
James E. Boren	Baton Rouge
Bernard E. Boudreaux, Jr.	Baton Rouge
Camille Buras	New Orleans
Matilde Carbia	New Orleans
Marilyn Castle	Lafayette
Greg C. Champagne	Hahnville
Susan M. Chehardy	Gretna
Louis R. Daniel	Baton Rouge
Letty S. Di Giulio	New Orleans
Mary L. Doggett	Alexandria
Christopher H. Hester	Baton Rouge
C. Frank Holthaus	Baton Rouge
Loren Lampert	Baton Rouge
Quintillis Kenyatta Lawrence	Baton Rouge
C. Wendell Manning	Monroe
Sherika J. Nelson	Baton Rouge
Douglas J. Saloom	Lafayette
Scott U. Schlegel	Gretna
Alvin Turner, Jr.	Gonzales
Michael S. Walsh	Baton Rouge
Kristin M. Wenstrom	New Orleans

Judge Guy Holdridge, Acting Reporter
Mallory C. Waller, Staff Attorney
Josef P. Ventulan, Staff Attorney

SENATE CONCURRENT RESOLUTION NO. 138

BY SENATORS CLAITOR, CORTEZ AND MILLS AND REPRESENTATIVE
COUSSAN

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study and make recommendations relative to interviewing victims and witnesses of a crime.

WHEREAS, Louisiana law provides relative to the basic rights of crime victims and witnesses, and provides relative to circumstances under which a crime victim may be interviewed; and

WHEREAS, present law provides that a crime victim and the victim's family may refuse any requests for interviews with the attorney for the defendant or any employee or agent of the attorney for the defendant; and

WHEREAS, before any crime victim may be subpoenaed to testify on behalf of a defendant at any pretrial hearing, the defendant must show good cause at a contradictory hearing with the district attorney why the subpoena should be issued; and

WHEREAS, willful disregard of these provisions relative to the rights of a crime victim and witness may be punishable by contempt of court; and

WHEREAS, concerns have been expressed in some quarters that these protections for crime victims and witnesses may not go far enough, and that additional provisions are needed that would require that any request for an interview with a crime victim or the victim's family be preceded by a clear and unambiguous notice that the person seeking the interview is the defendant's attorney or works for the defendant's attorney and that the victim or the victim's family member be notified of their right to refuse the interview, under penalty of contempt of court; and

WHEREAS, a study of the adequacy of present law relative to interviewing the victims and witnesses of crimes should be made, and a determination made as to whether present law adequately addresses the various concerns raised, or whether new laws should be proposed and enacted.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study and make recommendations, if any, for the revision of the laws regarding interviewing victims and witnesses of a crime.

BE IT FURTHER RESOLVED that the study shall include a determination relative to the adequacy of present law, including the Louisiana Code of Evidence, the Code of Ethics, and any other law germane to the issue before the institute, as well as any changes or additions to proposed law that the institute deems appropriate.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute work in conjunction with the Louisiana District Attorneys Association, the Louisiana Public Defender Board, the Louisiana Association of Criminal Defense Lawyers, and the Louisiana District Judges Association, and any other agencies or associations deemed appropriate by the institute regarding this study.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before January 31, 2020.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

May 6, 2024

To: Senator Cameron Henry
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Representative Phillip R. DeVillier
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

**REPORT TO THE LEGISLATURE IN RESPONSE TO SENATE CONCURRENT
RESOLUTION NO. 138 OF THE 2019 REGULAR SESSION**

Senate Concurrent Resolution No. 138 of the 2019 Regular Session urged and requested the Louisiana State Law Institute to study and make recommendations relative to interviewing victims and witnesses of a crime, particularly with respect to the necessity of providing a clear and unambiguous notice to the victim or witness that the interview is being sought on behalf of the defense. In fulfillment of this request, the Law Institute assigned the project to its Criminal Code and Code of Criminal Procedure Committee, which is comprised of members of the bench and bar, law professors, and representatives of other interest groups and operates under the direction of Judge Guy Holdridge as Acting Reporter.

The Law Institute generally discussed the problem raised in the resolution as well as more specific issues concerning interviewing crime victims and witnesses that arose in the context of legislation proposed during the 2019 Regular Session – namely, House Bill No. 131 by Representative Coussan. Members of the Committee and other stakeholders involved in negotiations concerning the proposed legislation provided additional information, explaining that the bill was intended to provide a sort of *Miranda* warning to victims and witnesses of crimes concerning their rights to refuse requests for interviews, particularly those made by the defendant's attorney or that attorney's employees. The Law Institute worked with stakeholders to determine whether a consensus with respect to these issues could be reached as well as whether misleading interactions with crime victims and witnesses has remained a problem in more recent years.

After continued consideration and monitoring, it was determined that these issues are adequately addressed and no additional legislation is currently necessary. As a result, the Law Institute makes no recommendations with respect to interviewing victims and witnesses of a crime at this time.