



LOUISIANA STATE LAW INSTITUTE

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January 28, 2016

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, LA 70804

RE: SR 199 of 2015

Dear Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2015 Senate Resolution No. 199, relative to granting attorney fees in civil contempt of court proceedings.

Sincerely,


William E. Crawford
Director

WEC/puc
Enclosure

cc: Senator Daniel "Danny" Martiny

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

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

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO SR 199 OF THE 2015 REGULAR SESSION**

Relative to granting attorney fees in civil contempt of court proceedings

Prepared for the
Louisiana Legislature on

January 28, 2016

Baton Rouge, Louisiana

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

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To: Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO SR NO. 199 OF THE 2015 REGULAR SESSION**

Senate Resolution No. 199 of the 2015 Regular Session, attached, urges and requests the Louisiana State Law Institute “to study whether the granting of attorney fees should be allowed in civil contempt of court proceedings.” In fulfillment of this request, the Law Institute assigned the project to its Code of Civil Procedure Committee, a continuous revision committee under the supervision of Reporter William R. Forrester, Jr.

The Committee met to study the issue, conduct research, and identify issues and deficiencies under current law. The Committee decided that the grant of attorney fees should be allowed in civil contempt of court proceedings, but that it should be limited only to the prevailing party. The Committee also decided to make the award of attorney fees in a civil contempt of court proceeding permissive rather than mandatory. Although the Committee is nearing completion of its work in drafting proposed legislation to provide for the granting of attorney fees in civil contempt of court proceedings, the work is still ongoing, and there are a few minor issues that need to be resolved.

A final report will be submitted to the Legislature once the Committee has received approval of its project from the Council of the Law Institute. The Council will be reviewing the Committee’s work at its meeting on February 12-13, 2016.

Respectfully submitted,

William R. Forrester, Jr., Reporter
Code of Civil Procedure Committee
Louisiana State Law Institute

SENATE RESOLUTION NO. 199

BY SENATOR MARTINY

A RESOLUTION

To urge and request the Louisiana State Law Institute to study whether the granting of attorney fees should be allowed in civil contempt of court proceedings.

WHEREAS, the power to punish for civil contempt of court is set forth generally in the Code of Civil Procedure, including Articles 221, et seq., and also in R.S. 13:4611, providing specific penalties and procedures; and

WHEREAS, the courts of Louisiana have stated in numerous cases that contempt of court is an affront to the dignity of the court, and that contempt proceedings are "designed for vindication of the dignity of the court rather than for the benefit of a litigant"; and

WHEREAS, cases have additionally pointed out that the Constitution of Louisiana permits the statutory limitation of a court's contempt power, and that the power to punish for contempt generally is limited to Article V courts, with a justice of the peace having only limited powers to punish for contempt; and

WHEREAS, cases have further pointed out that no statutory provision exists in the Code of Civil Procedure articles concerning contempt generally or in R.S. 13:4611 for the allowance of attorney fees in a contempt action, thus no attorney fees may be awarded in contempt actions pursuant to those provisions; and

WHEREAS, the Louisiana State Law Institute should study whether the granting of attorney fees should be allowed in civil contempt of court proceedings and, if so, under what circumstances, and submit a report of its findings to the Legislature no later than February 1, 2016.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study whether the granting of attorney fees should be allowed in civil contempt of court proceedings and, if so, under what circumstances, and to submit a report of its findings to the Legislature no later than February 1, 2016.

SR NO. 199

ENROLLED

BE IT FURTHER RESOLVED that any recommendations in the report for revisions to current law shall be in the form of proposed legislation containing appropriate substantive text to enact such recommendations in a statutorily consistent and coordinated manner.

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