



**LOUISIANA STATE LAW INSTITUTE**

PAUL M. HEBERT LAW CENTER, ROOM W127

UNIVERSITY STATION

BATON ROUGE, LA 70803-1016

OFFICE OF  
THE DIRECTOR  
(225) 578-0200

FAX: (225) 578-0211

EMAIL: LAWINSTITUTE@LSLI.ORG

January 28, 2020

Senator Patrick Page Cortez  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

Representative Clay Schexnayder  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

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

Dear Mr. President and Mr. Speaker:

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

Sincerely,

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

Guy Holdridge  
Director

cc: Senator Fred Mills  
Representative Jean-Paul P. Coussan

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)  
Secretary of State, Mr. R. Kyle Ardoin  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

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

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO SCR NO. 138 OF THE 2019 REGULAR SESSION**

**Relative to interviewing crime victims and witnesses**

Prepared for the  
Louisiana Legislature on

**January 28, 2020**

Baton Rouge, Louisiana

# LOUISIANA STATE LAW INSTITUTE CODE OF CRIMINAL PROCEDURE COMMITTEE

E. Pete Adams, Jr.	Baton Rouge
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
Jessica D. Cassidy	Shreveport
Marilyn Castle	Lafayette
Greg C. Champagne	Hahnville
Susan M. Chehardy	Gretna
Louis R. Daniel	Baton Rouge
Emma J. Devillier	Baton Rouge
John E. Di Giulio	Baton Rouge
Michelle E. Ghetti	Baton Rouge
Craig F. Holthaus	Baton Rouge
Robert W. "Bob" Kostelka	Monroe
Loren Lampert	Baton Rouge
Quintillis Kenyatta Lawrence	Baton Rouge
C. Wendell Manning	Monroe
Anthony J. Marabella, Jr.	Baton Rouge
John Ford McWilliams, Jr.	Shreveport
Douglas P. Moreau	Baton Rouge
Sherika J. Nelson	Baton Rouge
Douglas Nichols	New Orleans
John Wilson Reed	New Orleans
Scott U. Schlegel	Gretna
Perry R. Staub, Jr. <i>Special Advisor</i>	New Orleans
Ansel "Marty" Stroud, III	Shreveport
Alvin Turner, Jr.	Gonzales

Judge Guy Holdridge, Acting Reporter  
Mallory C. Waller, 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

January 28, 2020

To: Senator Patrick Page Cortez  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

Representative Clay Schexnayder  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO SCR NO. 138 OF THE 2019 REGULAR SESSION**

Senate Concurrent Resolution No. 138 of the 2019 Regular Session urges and requests the Louisiana State Law Institute to study and make recommendations relative to interviewing victims and witnesses of a crime. 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 Committee generally discussed the issues mentioned in the resolution as well as more specific issues that arose in the context of legislation proposed during the 2019 Regular Session. Members of the Committee involved in negotiations concerning that legislation provided the Committee with background information and explained that the intent was 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.

Ultimately, the Committee agreed that a study group of those involved in these negotiations should be formed with the goal of reaching a consensus with respect to these issues and proposing a recommendation for revision. The Committee plans to receive the study group's recommendation at an upcoming meeting, and a final report will be submitted to the Legislature once the recommended revisions have been approved by the Council of the Law Institute.

Respectfully submitted,

Judge Guy Holdridge, Acting Reporter  
Criminal Code and Code of Criminal Procedure Committee  
Louisiana State Law Institute