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January 29, 2020

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

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

**RE: HOUSE CONCURRENT RESOLUTION NOS. 46 AND 47 OF THE 2019
REGULAR SESSION**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to vulnerable road users.

Sincerely,

A handwritten signature in black ink, appearing to read "Guy Holdridge", with a long horizontal stroke extending to the right.

Guy Holdridge
Director

cc: Representative Rick Edmonds
Representative Polly Thomas
Senator Franklin J. Foil
Senator Sharon Hewitt
Senator Gary L. Smith, Jr.

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.gov
Secretary of State, Mr. R. Kyle Ardoin
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**LOUISIANA STATE LAW INSTITUTE
CODE OF CRIMINAL PROCEDURE COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO
HCR NOS. 46 AND 47 OF THE 2019 REGULAR SESSION**

Relative to vulnerable road users

Prepared for the
Louisiana Legislature on

January 28, 2020

Baton Rouge, Louisiana

LOUISIANA STATE LAW INSTITUTE CODE OF CRIMINAL PROCEDURE COMMITTEE

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

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 46

BY REPRESENTATIVE THOMAS AND SENATORS CORTEZ, ERDEY, HEWITT,
LONG, AND GARY SMITH

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study the Model Vulnerable Road User Law to determine its applicability in Louisiana.

WHEREAS, a problem exists in Louisiana with respect to accidents involving motorists or truck drivers and pedestrians, cyclists, and motorcyclists when a motorist or truck driver only receives a misdemeanor traffic violation for failing to yield a right-of-way and killing a vulnerable road user; and

WHEREAS, motorists and truck drivers can subvert appearing in court by admitting guilt and paying a fine; and

WHEREAS, unless the motorist or truck driver leaves the scene of an accident involving a pedestrian, cyclist, or motorcyclist, the motorist or truck driver rarely receives any punishment aside from a misdemeanor ticket and nominal fine; and

WHEREAS, district attorneys have been reluctant to prosecute the motorists or truck drivers for felonies that require specific intent; and

WHEREAS, the Model Vulnerable Road User Law could effectively address this issue; and

WHEREAS, the Model Vulnerable Road User Law provides important legal protection to motorcyclists and other persons who are not protected by steel cages; and

WHEREAS, this law is not just beneficial for motorcyclists, but also bicyclists, persons that ride scooters, use wheelchairs, and pedestrians; and

WHEREAS, the Model Vulnerable Road User Law defines a "vulnerable road user" as (1) a pedestrian, including those persons actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency

services within the right of way; or (2) a person riding or leading an animal; or (3) a person lawfully operating or riding any of the following on a public right-of-way, crosswalk, or shoulder of the highway: (a) bicycle, tricycle, or other pedal-powered vehicles; (b) a farm tractor or similar vehicle designed primarily for farm use; (c) a skateboard; (d) roller skates; (e) in-line skates; (f) a scooter; (g) a moped; (h) a motorcycle; (i) an animal-drawn wheeled vehicle, or farm equipment, or sled; (j) an electric personal assistive mobility device; or (k) a wheelchair; and

WHEREAS, the Model Vulnerable Road User Law operates on a principal of general deterrence by providing increased penalties for certain road behaviors that cause serious injury or death to motorcyclists or other vulnerable road users; and

WHEREAS, nine other states have adopted the Model Vulnerable Road User Law; and

WHEREAS, without substantial penalties and retraining, motorists or truck drivers that kill or injure members of the community with which they share public streets will not be deterred from repeat behavior; and

WHEREAS, the Model Vulnerable Road User Law will provide the courts the necessary options to impose stronger punishment to deter this dangerous conduct; and

WHEREAS, the Model Vulnerable Road User Law would address the road safety concerns of all road users and can lead to significant improvement in overall road safety.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the Model Vulnerable Road User Law to determine its applicability in Louisiana.

BE IT FURTHER RESOLVED, at a minimum, the Louisiana State Law Institute should study the following:

- (1) The magnitude of the problem.
- (2) Crash types and driver behaviors that are contributing factors.
- (3) Strategies, including implementing a vulnerable road user law, that have the potential for reducing vulnerable road user fatalities.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit a report detailing the results of its study and its recommendation to the legislature prior to February 1, 2020.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 47

BY REPRESENTATIVES EDMONDS AND FOIL

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to form a study group to recommend proposed legislation providing penalties for causing injury or death to pedestrians and bicyclists while operating a motor vehicle, and to report its findings to the Louisiana Legislature no later than February 1, 2020.

WHEREAS, United States citizens take one hundred twenty-seven million walking trips per day and nine million bicycle trips per day; and

WHEREAS, one in twelve households in the United States does not own an automobile; and

WHEREAS, in 2009, 11.9% of all trips taken by Americans were either by walking or bicycling, which was 2.4% higher than the percentage of trips taken by Americans while either walking or bicycling in 2001; and

WHEREAS, 61% of all trips made by bicycle were for recreation or exercise, but only 48% of those trips were made on a paved road; and

WHEREAS, 63% of all trips made by walking were for recreation, exercise, or dog walking, but only 33% of those trips were made on a paved road; and

WHEREAS, between 2008 and 2017, drivers in the United States struck and killed forty-nine thousand four hundred thirty people who were walking on paved roads, which averages to just under fourteen people per day, or one person every hour and forty-six minutes; and

WHEREAS, in 2015, there were over one thousand bicycle-related deaths and almost four hundred sixty-seven thousand bicycle-related injuries; and

WHEREAS, adults between the ages of fifty and fifty-nine have the highest chance of bicycle-related deaths and children and adolescents have the highest chance of bicycle-related injuries; and

WHEREAS, according to Smart Growth America's Dangerous by Design 2019 study, the Baton Rouge metropolitan area is the twelfth most dangerous metropolitan area for pedestrians in the United States and Louisiana is the fourth most dangerous state in the United States for pedestrians.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to form a study group to recommend proposed legislation providing penalties for causing injury or death to pedestrians and bicyclists while operating a motor vehicle.

BE IT FURTHER RESOLVED that, at a minimum, the study group should include three representatives of outdoor cycling clubs within the state of Louisiana, the Louisiana District Attorneys Association, and the Louisiana Municipal Association.

BE IT FURTHER RESOLVED, that the Louisiana State Law Institute shall submit a report detailing the results of its study and its recommendation for proposed legislation to the Legislature of Louisiana no later than February 1, 2020.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

January 28, 2020

To: Representative Clay Schexnayder
Speaker of the House of Representatives
P.O. Box 94062
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**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO HCR NOS. 46 AND 47 OF THE 2019 REGULAR SESSION**

House Concurrent Resolution No. 46 of the 2019 Regular Session urges and requests the Louisiana State Law Institute to study the Model Vulnerable Road User Law to determine its applicability in Louisiana. Similarly, House Concurrent Resolution No. 47 of the 2019 Regular Session urges and requests the Louisiana State Law Institute to form a study group to recommend proposed legislation providing penalties for causing injury or death to pedestrians and bicyclists while operating a motor vehicle.

In fulfillment of these requests, the Law Institute assigned the project to its Criminal Code and Code of Criminal Procedure Committee, which operates under the direction of Judge Guy Holdridge as Acting Reporter. The Code of Criminal Procedure Committee then created a Vulnerable Road Users Subcommittee, which was placed under the direction of Mr. Charles Thomas as Chairman and is comprised of members of the bench and bar as well as representatives of cyclist organizations and other stakeholder groups.

The Vulnerable Road Users Subcommittee held several meetings throughout the fall of 2019 to conduct background research and to discuss whether a vulnerable road user law would be a positive addition to Louisiana law. The Subcommittee considered existing criminal penalties and civil remedies, as well as legislation that was proposed during the 2016 Regular Session and the Model Vulnerable Road User Law, in crafting its recommendations. The Subcommittee plans to present its proposed revisions at an upcoming meeting of the Code of Criminal Procedure Committee and at the February meeting of the Law Institute's Council before submitting draft legislation during the 2020 Regular Session. A final report will be submitted to the Legislature once these recommendations have been approved.

Respectfully submitted,

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