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May 6, 2024

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

Senator Cameron Henry  
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 AND HOUSE CONCURRENT RESOLUTION NO. 95  
OF THE 2021 REGULAR SESSION**

Dear Mr. Speaker and Mr. President:

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

Sincerely,

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

Guy Holdridge  
Director

GH/pc  
Enclosure

cc: Senator Rick Edmonds  
Senator Franklin Foil  
Representative Polly Thomas

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)  
Secretary of State, Ms. Nancy Landry  
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**LOUISIANA STATE LAW INSTITUTE  
CODE OF CRIMINAL PROCEDURE COMMITTEE**

**REPORT IN RESPONSE TO HCR NOS. 46 AND 47 OF THE 2019  
REGULAR SESSION AND HCR NO. 95 OF THE 2021 REGULAR SESSION**

**Relative to vulnerable road users**

Prepared for the  
Louisiana Legislature on

**May 6, 2024**

Baton Rouge, Louisiana

# LOUISIANA STATE LAW INSTITUTE CODE OF CRIMINAL PROCEDURE COMMITTEE

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Judge Guy Holdridge, Acting Reporter  
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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.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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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.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE



2021 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 95

BY REPRESENTATIVE THOMAS

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to review all Louisiana laws relative to motor vehicle accidents to see whether the creation of the crime of infliction of serious injury or death on a road user is necessary.

WHEREAS, in 2018, there were five thousand nine hundred seventy-seven pedestrians who were killed in traffic crashes in the United States; and

WHEREAS, pedestrians account for seventeen percent of traffic crash fatalities; and

WHEREAS, there are one hundred thirteen thousand six hundred sixty-four registered motorcycles; and

WHEREAS, Louisiana is ranked thirteenth in motorcycle fatalities with eighty-seven fatalities; and

WHEREAS, in Louisiana in 2019, one hundred twenty-two pedestrians were killed while twenty-two bicyclists were struck and killed; and

WHEREAS, in 2019, the citizens of Louisiana paid over eight billion dollars for crashes, the equivalent to each licensed driver paying about two thousand nine hundred five dollars; and

WHEREAS, on average a fatal motorcycle accident costs approximately one million dollars; and

WHEREAS, the average cost for a non-fatal pedestrian accident is approximately four thousand four hundred sixty dollars for minor injuries while an accident with more serious injuries can cost approximately seven hundred ninety-one thousand seven hundred fifty-seven dollars; and

WHEREAS, the costs for fatal pedestrian accidents are approximately three million dollars; and

WHEREAS, the driver may only pay a minor fine of one hundred eighty dollars; and

WHEREAS, the only severe legal consequences occur when the driver has fled the scene or is intoxicated.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby request the Louisiana State Law Institute to review all Louisiana laws relative to motor vehicle accidents to determine whether the creation of the crime of infliction of serious injury or death on a road user is necessary.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute and that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before January 1, 2022.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one print copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

May 6, 2024

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

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

**REPORT TO THE LEGISLATURE IN RESPONSE TO HCR NOS. 46 AND 47 OF THE  
2019 REGULAR SESSION AND HCR NO. 95 OF THE 2021 REGULAR SESSION**

House Concurrent Resolution No. 46 of the 2019 Regular Session urged and requested the Louisiana State Law Institute to study the Model Vulnerable Road User Law to determine its applicability in Louisiana. The Law Institute was asked to study the magnitude of this problem as well as strategies, including implementing a vulnerable road user law, that have the potential to reduce vulnerable road user injuries and fatalities. House Concurrent Resolution No. 47 of the 2019 Regular Session urged and requested the 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. Additionally, House Concurrent Resolution No. 95 of the 2021 Regular Session urged and requested the Law Institute to review Louisiana law relative to motor vehicle accidents for purposes of determining whether the creation of the crime of infliction of serious injury or death on a road user is necessary.

In fulfillment of these requests, the Law Institute assigned the project to its Code of Criminal Procedure Committee, which then created a Vulnerable Road Users Subcommittee. The Subcommittee's Chairman, Charles Thomas, and Acting Reporter, Judge Guy Holdridge, held several meetings to conduct background research and discuss how best to address these issues, considering whether a Vulnerable Road User (VRU) law or similar legislation concerning the infliction of serious injury or death on a road user would be a positive addition to Louisiana law.

As background, House Concurrent Resolution No. 46 noted that a problem exists in Louisiana with respect to crashes involving motor vehicle drivers who receive only a misdemeanor traffic citation for crashing into and injuring or killing vulnerable road users. Unless a motorist flees the scene of a crash or is in violation of R.S. 14:98 – operating a vehicle while intoxicated – when striking a vulnerable road user, motorists rarely receive any punishment aside from a misdemeanor traffic ticket and nominal fine.

As further background, House Concurrent Resolution No. 47 acknowledged the following facts:

- Each day, people in the United States take one-hundred twenty-seven million walking trips and nine million bicycle trips;
- One in twelve households in the United States does not own an automobile;
- Between 2008 and 2017, drivers in the United States struck and killed 49,439 people who were walking on paved roads, which averages approximately 14 people per day, or one person every hour and forty-six minutes;
- In 2015, there were over 1,000 bicycle-related deaths and almost 467,000 bicycle-related injuries; and
- 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.

A VRU law is designed to deter drivers from crashing into “vulnerable” people on our roadways. This category consists of pedestrians, bicyclists, motorcyclists, law enforcement assisting stranded motorists, highway construction workers, and anyone else not enclosed in a metal cage while using a road, shoulder, or crosswalk. At least twelve other states have passed a VRU law, including Colorado, Connecticut, Delaware, Florida, Hawaii, Maine, Maryland, Oregon, Utah, Vermont, Virginia, and Washington. In Texas, many cities have passed their own VRU laws in the absence of a statewide version of a VRU law.

The Subcommittee met to discuss the issues raised in the resolutions and recognized the important policy considerations behind a VRU law, which could serve as a middle ground between felony charges and misdemeanor traffic violations. Crashes involving a hit and run dynamic or intoxicated driving have specific felony provisions with heightened penalties. Conversely, misdemeanor traffic violations most appropriately apply to traffic infractions not involving a crash or to minor traffic collisions. When a pedestrian, bicyclist, or motorcyclist is killed by a motor vehicle driver, law enforcement officers and prosecutors have little choice but to issue a misdemeanor traffic citation in the absence of an additional aggravating factor. VRU laws are intended to fill this gap in the law and serve as a middle ground between mere traffic citations and more serious crimes, such as negligent homicide or manslaughter.

The Subcommittee also agreed that for a proposed VRU law to apply, an offending driver must both break a traffic law and inflict serious bodily injury upon or kill a vulnerable person. It was recommended that a proposed VRU law require the offender to appear at a court hearing relating to the alleged offense. Additionally, the Subcommittee discussed providing the court with the option to impose any or none of the following penalties:

1. Suspension of driving privileges for not more than one year;
2. Fine not to exceed \$2,000;
3. Jail sentence not to exceed one year;
4. Order to complete a court-approved motor vehicle crash prevention program; and/or
5. Order to perform community service not to exceed two hundred (200) hours.

The Subcommittee spent much time discussing and debating these penalties and concluded that a proposed VRU law should *not* require a minimum penalty, with the exception of a required

court appearance. This would provide the court with full discretion to impose the proper penalties on a case-by-case basis and would allow the relevant provision to be categorized as a misdemeanor as opposed to a felony. The Subcommittee also invited other Louisiana stakeholders to attend a meeting and provide feedback with respect to these discussions. Several law enforcement personnel from both parish and state levels participated and unanimously agreed with the benefit that a VRU law would provide and offered support with respect to the recommended penalties. Separately, the Subcommittee asked other policy advocates about the need for a VRU law, and these advocates stressed the importance of creating the physical and social infrastructure to support safety and accessibility on our roadways and to keep each other safe by paying attention and acting respectfully toward one another, especially those who are most vulnerable.

The Subcommittee also considered that during the 2016 Regular Session, a similar VRU law was proposed as Senate Bill No. 171. The bill passed the Senate Committee, the Senate floor, and the House Committee before failing on the House floor by a vote of 51-46 against the bill. The failure was largely attributed to misinformation and misunderstanding about the bill, as well as some resistance relating to its enforcement. Other concerns were expressed about ensuring that any solution being proposed is not overly broad and provides guidance and clarity in its requirements.

The Subcommittee packaged its recommendations into draft legislation that was the product of much discussion and debate, outside research, stakeholder input, and the study of both the Model Vulnerable Road User law and the previously introduced version of Senate Bill No. 171 of the 2016 Regular Session. The Subcommittee intended to strike a balance between the lower rung of misdemeanor traffic offenses and the higher step of more serious, felony crimes. Based on this, the Subcommittee initially recommended the adoption of a VRU law to help Louisiana reduce its rate of motor vehicle crashes with serious bodily injury or fatalities to vulnerable road users, and to provide a middle ground in the law for this type of increasingly common crash scenario.

Thereafter, House Bill No. 316 of the 2020 Regular Session and House Bill No. 11 of the 2021 Regular Session were introduced proposing to create the crime of infliction of serious injury or death on a road user. These bills included many of the elements and proposed penalties from the Subcommittee's draft but ultimately failed to proceed out of legislative committee. Critics of the legislation argued that the creation of this additional crime is unnecessary when other provisions of law – such as negligent injuring under R.S. 14:39 et seq., reckless operation under R.S. 14:99, and careless operation under R.S. 32:58 – already exist in addition to the more serious provisions on negligent and vehicular homicide. Questions also arose with respect to whether the underlying traffic offense would need to be a moving violation that actually caused or contributed to the crash, as well as whether the proposed legislation was overly broad and even unconstitutional to the extent that it would apply to acts of ordinary negligence that lack any sort of criminal intent.

In light of these and other criticisms, the Law Institute began discussing alternative solutions to these issues, including the addition of driver's education requirements and the possibility of public service outreach efforts on topics such as distracted driving and the three-foot rule in R.S. 32:76.1. With respect to distracted driving, the Law Institute discussed issues

pertaining to enforcement of the current provisions prohibiting texting and accessing social media while driving, including R.S. 32:300.5, namely the fact that law enforcement officers are often unable to prove whether the driver was making a call or accessing a map as opposed to taking some prohibited action. The Law Institute agreed that concerns with respect to enforcement of existing provisions on distracted driving would be resolved with the enactment of more overarching handsfree legislation but also noted that such a proposal has been made every year since at least 2018 but has not yet been enacted by the Legislature.

## **CONCLUSION**

In response to House Concurrent Resolutions No. 46 and 47 of the 2019 Regular Session and House Concurrent Resolution No. 95 of the 2021 Regular Session, the Louisiana State Law Institute studied the enactment of a Vulnerable Road User law or similar provision in Louisiana. The Law Institute's Subcommittee crafted a proposal that would have applied when a vulnerable person had been seriously injured or killed by an offender who violated a traffic law, in which case the offender would be required to attend a hearing at which the judge would have the discretion to impose several penalties, including suspending the offender's license, imposing a fine, requiring jail time, attending a crash prevention program, and participating in community service. In the meantime, however, the Legislature failed to adopt similar legislation amidst criticisms concerning its necessity and breadth, as well as its constitutionality. As a result, perhaps the Legislature should consider alternative means of offering additional protections to vulnerable road users, such as additional driver's education requirements or public service outreach efforts on the topics of distracted driving and sharing the road, as well as the possibility of enacting a handsfree law in Louisiana, in order to address the problems recognized in these resolutions.