SLS 18RS-36

ORIGINAL

2018 Regular Session

SENATE BILL NO. 39

BY SENATOR BISHOP

CRIMINAL PROCEDURE. Provides that any reference to an attorney made by a criminal suspect constitutes an invocation of the right to counsel. (8/1/18)

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Article 218.1, relative to the duty to
3	advise a criminal suspect of the reasons for arrest and the right to counsel; to provide
4	that any reference to an attorney made by a suspect during interrogation is deemed
5	to be an invocation of the right to counsel; to provide relative to legislative intent;
6	and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Code of Criminal Procedure Article 218.1 is hereby amended and
9	reenacted to read as follows:
10	Art. 218.1. Advice Duty to advise criminal suspect of reasons for arrest or
11	detention and of <u>the suspect's</u> rights
12	(A) When any person has been arrested or detained in connection with the
13	investigation or commission of any offense, he shall be advised fully of the reason
14	for his arrest or detention, his right to remain silent, his right against self
15	incrimination, his right to the assistance of counsel and, if indigent, his right to court
16	appointed counsel.
17	(B) When any person arrested or detained in connection with the

Page 1 of 2 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions. SB 39 Original

 or otherwise questioned by a law enforcement officer or district attorney, a reference made by the person to an "attorney", "lawyer", "counsel", substantially similar term, shall be deemed an invocation of the right assistance of counsel, and the interrogation shall cease until such time as t person obtains counsel or counsel is appointed for the person.
 4 <u>substantially similar term, shall be deemed an invocation of the right</u> 5 <u>assistance of counsel, and the interrogation shall cease until such time as t</u>
5 <u>assistance of counsel, and the interrogation shall cease until such time as t</u>
R
6 person obtains counsel or counsel is appointed for the person.
7 Section 2. The provisions of this Act are intended to legislatively overrule t
8 Louisiana Supreme Court's decision in <i>State of Louisiana v. Warren Demesme,</i> 201
9 KK-0954 (Sup.Ct. 10/27/17), to the extent that the court held that a criminal suspec
statement relative to a "lawyer" did not constitute an invocation of the right to counsel.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST 2018 Regular Session

Bishop

<u>Present law</u> provides that when any person has been arrested or detained in connection with the investigation or commission of any offense, the person is to be advised fully of the reason for his arrest or detention, his right to remain silent, his right against self incrimination, his right to the assistance of counsel and, if indigent, his right to court appointed counsel.

<u>Proposed law</u> retains <u>present law</u> and adds that when any person arrested or detained in connection with the investigation or commission of any offense is being interrogated, interviewed, or otherwise questioned by a law enforcement officer or district attorney, any reference made by the person to an "attorney", "lawyer", "counsel", or substantially similar term, will be deemed an invocation of the right to assistance of counsel, and the interrogation must cease until such time as the person obtains counsel or counsel is appointed for the person.

<u>Proposed law</u> provides that the provisions of <u>proposed law</u> are intended to legislatively overrule the La. Supreme Court's decision in *State of Louisiana v. Warren Demesme*, 2017-KK-0954 (Sup.Ct. 10/27/17), to the extent that the court held that a criminal suspect's statement "...why don't you just give me a lawyer dog..." did not constitute an invocation of the right to coursel.

Effective August 1, 2018.

(Amends C.Cr.P. Art. 218.1)