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**To:** LR Comments <[LRComments@kingcounty.gov](mailto:LRComments@kingcounty.gov)>  
**Subject:** Comments Proposed LFLR 12

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Hello,

Please see attached comments regarding the proposed rule LFLR 12 from the King County Family Law Unit of the Northwest Justice Project.

Thank you,

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**Comment on LFLR 12**

The King County Family Law Unit of the Northwest Justice Project (NJP) is dedicated to representing survivors of domestic violence in protection order proceedings and family law cases. NJP is Washington's largest publicly funded legal aid program. Each year NJP provides critical civil legal assistance and representation to thousands of low-income people in cases affecting basic human needs such as family safety and security, housing preservation, protection of income, access to health care, education and other basic needs. The NJP King County Family Law Unit is a team of dedicated legal professionals specifically focusing on cases where children are at risk due to domestic violence and where survivors face additional barriers to justice in accessing the court system. We

provide full representation, extensive pro se assistance, and advice and consultation. Our program would like to comment on the proposed LFLR 12.

We are encouraged that the proposed rule LFLR 12(j) acknowledges the fundamental purpose behind the Civil Protection Order Act (CPOA), chapter 7.105 RCW, which is to “help ensure that protection orders and corresponding court processes are more easily accessible to all litigants, particularly parties who may experience higher barriers to accessing justice.” RCW 7.105.900(5). Our goal is to offer constructive input on how the proposed rule might more fully align with that intent.

### **Legislative Intent and Judicial Discretion**

As currently drafted, the proposed rule appears to curtail the court’s ability to tailor procedures to the specific needs of each case. Civil protection orders are special proceedings deliberately designed by the legislature to be accessible and flexible: the rules of evidence need not be applied; parties cannot be compelled to testify; discovery is disfavored and can only be granted by court order; and no deadlines or evidence limits are imposed.

RCW 7.105.200(1) instructs courts to evaluate procedures based on the totality of circumstances, including disparities in parties’ resources and legal representation. Local rules may not conflict with the statute. *Harbor Enterprises, Inc. v. Gunnar Gudjonsson*, 116 Wn.2d 283, 293, 803 P.2d 798 (1991).

Given that most parties proceed pro se and often under urgent circumstances, adding procedural complexity—even through seemingly minor rules—risks creating unnecessary barriers, thereby undermining the legislature’s intent to provide “easy, quick and effective” access to protection orders. Flexibility and broad judicial discretion are essential to ensuring equitable access, especially for those navigating trauma and legal systems without support.

With that framework in mind, we ask the court to consider the following, organized in near alignment with the outline of the rule.

### **Evidentiary Limitations**

Under ER 1101, the rules of evidence need not be applied in protection order proceedings. As the court recognized in *Blackmon v. Blackmon*, 155 Wn. App. 715, 722, 230 P.3d 233

(2010), competent evidence may include hearsay or consist entirely of documents. Because these proceedings often rely heavily on written evidence, it is essential that petitioners be allowed to submit sufficient declarations to fully present the material facts of their case.

Petitioners frequently file initial pleadings pro se, often under time pressure and emotional distress, and frequently on the recommendation of a non-attorney service provider. In such circumstances, the initial petition may be incomplete. When counsel is retained after filing (which is often the case when petitioners retain civil legal aid or pro bono counsel), supplemental declarations are often essential to complete the petitioner's case-in-chief.

As written, the proposed LFLR 12(e)(1)(C) appears to prohibit a petitioner from filing a supplemental declaration. This rule will create situations where a pro se petitioner, upon speaking with a legal services attorney, will either have to dismiss their petition and start over, or proceed with a potentially insufficient petition. This places petitioners at greater risk of harm. This rule undermines the court's ability to make a decision based on a complete record. We would ask LFLR 12(e)(1)(C) to be clear that petitioners are entitled to a supplemental declaration in addition to the petition, and that the court is liberal in offering the opportunity to prepare supplemental materials with attorney assistance.

As established in the general rule and proposed LFLR 12(e)(1)(C), petitioners are entitled to file a reply. However, the page limit of that reply is only three pages. Respondents have no limit for their response declaration. Three pages is not enough room to fully reply to a response declaration that can be any page length. For example, as written, a respondent could file a 30-page response with additional exhibits, and the petitioner will only have three pages (and 48 hours) to address that response. Petitioners bear the burden of proof and need to have the opportunity to fully reply in writing. We would ask that LFLR 12(e)(1)(C), remove the page limit for reply declarations. In the alternative, we would ask LFLR 12(e)(1)(C), to increase the page limit to six pages.

The proposed rule LFLR 12(e)(2) requires that parties who file video or audio files must not only use Case Center but must also file a written summary of the uploaded file. It is unclear whether the summary must be filed into Case Center or into the court file. We often see cases where a video or audio file is uploaded but the party we are assisting has never seen it and does not have instructions on how to access it. A written summary poses a significant barrier to pro se litigants. Pro se parties often have limited access to technology and litigants who are Limited English Proficient or have disabilities may have severe difficulties complying with it. If such a rule remains, we would ask that the court

provide a simple cover sheet that pro se litigants could use that might contain check boxes and clear instructions in multiple languages. We would also ask that the rule clearly state where the summary must be filed.

## **Deadlines**

The CPOA contains no statutory filing deadlines, reflecting the legislature's intent for courts to recognize the ongoing and evolving harms that are unique to domestic violence, sexual assault, stalking and harassment. In this way, the legislature recognized that courts are in the best position to impose deadlines pursuant to the needs of the parties before them on a case-by-case basis.

The proposed rule LFLR 12(g) contains deadlines that limit all parties regardless of circumstances. The proposed deadlines—requiring respondents to file four judicial days before hearing and petitioners' rebuttals only two judicial days prior—creates undue hardship, particularly on pro se litigants and litigants who require the use of an interpreter or for litigants with disabilities. We have seen petitioners struggle to respond to voluminous filings (sometimes over 200 pages). A two-day turnaround conflicts with legislative intent and encourages additional motions and continuances, increasing risks to victims by prolonging litigation. See *Smith v. Smith*, 1 Wn. App. 2d 122, 136, 404 P.3d 101 (2017).

A two-day turnaround is incredibly challenging, especially for parties balancing work, childcare, healthcare appointments, and other responsibilities. Even with legal counsel, more time is needed to confer with our clients, prepare evidence, and coordinate witnesses. Rigid deadlines disproportionately affect low-income litigants, while also placing a heavy burden on civil legal aid providers and increasing burnout rates. These deadlines also disproportionately impact petitioners who require the use of an interpreter to review materials and prepare materials and must do so in a limited amount of time. They disproportionately impact litigants with disabilities who may struggle to comply with these deadlines. Further, such rigid deadlines prohibit counsel from agreed upon deadlines, which can prevent additional continuances and undermine judicial efficiency. We would ask that LFLR 12(g) remove these rigid deadlines and establish a briefing schedule on a case-by-case basis.

## **Oral Argument**

As written, the current rule allows five minutes each side for oral argument at the hearing. However, the rule is silent on whether that time increases when an interpreter is employed during the hearing. Under the general order now, some judicial officers allow for five minutes each side with interpretation, while others allow for ten minutes or more to each side with interpretation. This inconsistent practice is unfair for petitioners who are limited in argument, especially pro se litigants who need to address key issues through testimony at the full hearing. Further, interpreters often require repetition for clarity, and this time is often counted towards argument. Situations involving two interpreters, such as ASL/CDI require even more time to present. It is untenable for a petitioner to present their case with interpretation, and reply, all within five minutes. The inconsistent practice also makes it challenging for attorneys to prepare for a case with an interpreter when they are unsure of what time limit the court will impose.

We would ask that LFLR 12(h) make it clear that the time limits for oral argument are five minutes of argument without an interpreter, and ten minutes of argument with an interpreter. And to allow for additional time if repetition for the interpreter is necessary.

### **Conclusion**

The CPOA recognizes that “civil protection orders are essential tools designed to address significant harms impacting individuals as well as communities.” RCW 7.105.900(3). As attorneys and advocates for petitioners, we have witnessed the impact of easily accessible proceedings on increasing petitioner safety and access to justice, while reducing lethality.

We offer these comments with respect and in the spirit of supporting the court’s work to ensure fairness and access to justice in civil protection order cases.