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Subject: Comment on LFLR 12

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The Sexual Violence Law Center (SVLC) is a nonprofit law firm that protects the safety, privacy, and civil rights of survivors of sexual and gender-based violence. Our advocacy is based in race and gender equity principles. SVLC is the only civil legal aid program in Washington, providing holistic legal assistance and representation exclusively to victims of sexual violence, assault, trafficking, harassment and stalking. We frequently represent survivors, both as petitioners and respondents, and support pro se litigants appearing in King County Superior Court and have been appointed counsel for petitioners when respondents are represented.

We offer this comment in order to provide recommendations on how LFLR 12 can better align with the legislative intent of RCW 7.105 and the reality of pro se litigant experiences. We know this alignment is a shared goal as the proposed rule itself acknowledges the Civil Protection Order Act (CPOA) is intended 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).

Legislative Intent and Judicial Discretion

As currently proposed, LFLR 12 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—a litigant who has experienced several years of domestic violence, including coercive control and stalking, may need to present their case differently from a litigant seeking protection for a one time, single incident sexual assault or physical threat.

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

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 current rule would seem to allow a petitioner party to file a single declaration in support of their petition either with their petition or in addition to their petition. We would ask LFLR 12(e) to be clear that petitioners are entitled to a supplemental declaration in addition to whatever was filed with the petition, and that the court be liberal in offering the opportunity to prepare supplemental materials with attorney assistance. This not only serves to provide the court a complete picture of the case, but enables attorneys to effectively represent clients who retain them after having filed initially, guarding against ineffective assistance and potential attorney malpractice.

Under proposed LFLR 12(e), petitioners are entitled to file a single reply declaration of no more than three pages. Respondents, on the other hand, have no limit for their response declaration. Limiting a petitioner’s reply to three pages regardless of the response length is

unreasonable and inequitable. A recent case within our office demonstrates this clearly: the adult respondent in the case filed over 300 pages in response to the minor petitioner's petition. Under the proposed rule, that minor petitioner had three pages and 48 hours (filing deadline under the proposed rule) to review the response with their attorney and draft an adequate reply. This was an impossible feat for a represented petitioner, and a pro se petitioner would only be more disadvantaged. Petitioners bear the burden of proof and need to have the opportunity to fully reply in writing. We would ask that LFLR 12(e) remove the page limit for reply declarations. In the alternative, we would ask LFLR 12(e) to increase the page limit to 10 pages.

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 deadlines established by proposed LFLR 12(g)—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. We have seen petitioners struggle to respond to voluminous filings (described above). A two-day turnaround conflicts with legislative intent and encourages additional motions and continuances. This results in increased litigation, more hearings, and extended risk 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. For 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 the potential for burnout. 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. 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.

Proposed orders

As proposed, LFLR 12(f) requires parties to complete and file multiple proposed orders creating unnecessary barriers. Many forms require legal knowledge (e.g., evaluating whether conduct meets the “credible threat” standard or crafting custody provisions), which are even more difficult to complete if there is a language barrier.

For every court appearance, parties would also have to correctly identify, locate, and complete one or more of the following forms, often in uncertain procedural contexts:

- Order Realigning Parties (PO 032)
- Reissuance of Temporary Order and Notice of Hearing (PO 034)
- Protection Order (PO 040)
- Order to Surrender and Prohibit Weapons (WS 001)
- Order Renewing Protection Order (PO 056)
- Finding of Adequate Cause & Order for Hearing (PO 064)
- Order Modifying or Terminating Protection Order (PO 066)
- Contempt Hearing Order (PO 084)
- Order to Allow Service by Mail (PO 025)
- Order to Allow Electronic Service (PO 027)

Often, matters are continued for reasons outside the petitioner’s control—such as failure of service or a party requesting time to retain counsel—rendering proposed orders ultimately unnecessary. This creates inefficiencies for both parties and court staff.

The requirement for hand delivery or mailing of proposed orders further complicates matters. Given the three-day mailbox rule, proposed LFLR 12(f) requires petitioners to either mail in their proposed order prior to filing their final materials two judicial days before the hearing, or hand deliver their proposed order. Petitioners may be forced to take

time off work or incur transportation and parking costs. These requirements increase barriers and conflict with the accessibility goals outlined in RCW 7.105.900.

Oral Argument

As proposed, LFLR 12(h) 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 current general order, some judicial officers allow for five minutes each side with interpretation, while others allow for ten minutes 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. 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 as follows: five minutes of argument without an interpreter; ten minutes of argument with an interpreter; and additional time permitted if repetition for the interpreter is necessary.

Conclusion

“Civil protection orders are essential tools designed to address significant harms impacting individuals as well as communities.” RCW 7.105.900(3). As attorneys representing survivors—and assisting pro se litigants whom we are unable to formally represent—accessibility in these proceedings is directly tied to safety and fair outcomes. When processes are clear, timely, and navigable, survivors are more able to seek protection, engage with the court, and reduce risk, including the risk of escalating violence.

For these reasons, SVLC respectfully urges careful consideration of the potential barriers the proposed rule changes may create. Our comments are grounded in years of direct practice with litigants navigating these systems, including those without legal representation, and reflect recurring challenges that could be exacerbated by additional procedural hurdles.

These comments are offered with deep respect and in the shared goal of ensuring that civil protection order proceedings remain fair, accessible, and responsive to those they are intended to protect.

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