



*The Judiciary, State of Hawai'i*

**Testimony to the House Committee on Finance**

Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Representative Aaron Ling Johanson, Vice Chair

Wednesday, March 5, 2014, 2:00 p.m.  
Room 308

by  
Tom Mick  
Policy and Planning Department Director

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**Bill No. and Title:** House Bill No. 1638, H.D. 1, Relating to the Judiciary.

**Purpose:** To provide supplemental operating and capital improvement appropriations for FY 2015.

**Judiciary's Position:**

The Judiciary strongly urges your support of House Bill No. 1638, H.D.1, which reflects the Judiciary's resource requirements for FY 2015. During the informational budget briefings to the members of the Senate Committee on Ways and Means and the House Committee on Finance on January 6, 2014, we provided detailed information on our supplemental budget request, our current appropriation and expenditures, and on our caseload and revenue contributions to the State. Consequently, our testimony today will address only the highlights.

The Judiciary recognizes that the economy and overall economic outlook for Hawai'i have significantly improved relative to the last two fiscal biennia. However, as you know and we understand, in keeping with the biennium budget concept, supplemental budget resources will be requested largely to address unforeseen developments, inadvertent oversights, and other special circumstances which might cause hardship on those we serve. In addition, we are quite mindful of the many competing demands for the limited resources available. Accordingly, the Judiciary has tried to be very prudent in its supplemental budget request and focus on only its most pressing needs relative to the clients and public it serves, as well as to its own operations and



staff. To that end, the Judiciary is requesting 19 new permanent positions and additional funding of \$4.9 million for FY 2015.

Two of our requests relate to funding needed for salary adjustments, the first being \$334K for the two percent salary increase set by the 2013 Commission on Salaries for the justices and judges. The second request results from the fact that there currently is no mechanism to adjust the pay of the Administrative Director and Deputy Administrative Director of the Courts. Separate bills have been introduced this legislative session to address this issue and if either one is approved, \$27K would be needed to comply with this bill.

Some of our requests focus on our especially vulnerable clients, that is, our children, those with mental health issues, and others that cannot fend for themselves. For Children's Justice Center, we are requesting funding to replace its interview recording equipment at all locations on each island so that children who have been sexually abused or witnesses to violent crime will not have to be re-interviewed and re-traumatized due to faulty recording equipment that is intermittently breaking down. On November 1, 2013, the vendor discontinued supporting this recording equipment. For Mental Health Court, which was established in 2005 for people with severe mental health issues and was originally budgeted for two probation officer positions and 60 clients, a temporary probation officer position is needed to replace one lost during the economic downturn. This position would allow expansion to 30 clients per probation officer as the one probation officer currently employed is trying to handle 38 clients, with nine on a waitlist and nine more in the referral process. Another mental health request is for a position and funding to replace Mea Kokua program grant funding of \$200K, which expires on February 28, 2014, and which is used to treat offenders with co-occurring substance abuse and mental health disorders. Replacement of grant funding would allow creation of a permanent track in Drug Court for such offenders; currently, there are 55 offenders in the program with 10 on a waitlist. Lastly, a supervisory position in the Office of Public Guardian is being requested to oversee and supervise eight O'ahu guardians who average about 80 clients each.

Another set of requests relate to adult and juvenile offenders and Family Court matters and concerns. Specifically, First Circuit has requested supplemental resources to: (1) lease space in Kapolei to further consolidate Family Court functions in one geographic location, (2) continue restoration of Purchase of Service (POS) contract funding to provide essential treatment to adult and juvenile offenders and their victims, (3) maintain and expand its Project HOPE (Hawaii's Opportunity Probation with Enforcement) program, and (4) establish a mediator position for Family Court and a Nurse Manager position at the Juvenile Detention Facility; while Second Circuit has requested funds to cover increased guardian ad litem/legal counsel costs that are in excess of budget. About \$1.1 million is being requested to move from Honolulu and lease space in Kapolei for 81 employees in the Juvenile Client Services Branch (i.e., Juvenile Intake and



Probation Services, Girls Court, Juvenile Drug Court, and Family Drug Court). Having this Branch in Kapolei would improve communication and coordination among Family Court divisions as they would all be co-located in the same geographical proximity, eliminate travel time (lost time) between Honolulu and Kapolei, result in workers being more productive and efficient and in spending more quality time with juveniles and their families, improve morale and performance by reducing travel stress and fatigue, and free up second floor space in Ka'ahumanu Hale (the Circuit Court Building in Honolulu) for additional courtrooms and related offices. Regarding POS funding, another \$650K is being requested this year to continue the restoration process begun last year when the Legislature generously provided us more than \$600K in this area. Such funding is important to providing needed services to our adult and juvenile offenders; victims; and their families, relatives, and loved ones. For Project HOPE, the Judiciary is requesting funding for two permanent drug testing positions which provide random drug testing on more than 2,000 offenders (125 tests daily), and for which grant funding ended on June 30, 2013. A second Project HOPE request is for funding for three temporary positions so as to continue to maintain and expand this successful program, cover lab analysis and supply costs that are significantly exceeding budgeted amounts, and lessen workload per probation officer. The Family Court mediator position being requested would provide an on-site alternative to costly and time-consuming litigation, and give parties a neutral place and process to explore and resolve pending issues and settle cases. The Nurse Manager position is needed to ensure proper medical protocols are established and in place relative to the juveniles housed at the Detention Facility, and to oversee and supervise the three nurses employed.

Other supplemental resources are being requested in the court operations and services area. In First Circuit, these requests relate to court interpreting, audio/visual recording systems in Kapolei courtrooms, and cashiering functions; in Second Circuit, the one request relates to legal documents; and in Third Circuit, the requests relate to security and information technology (IT) needs. First Circuit needs a position to help manage and schedule court interpreters, as court interpreter requests have increased by 77% in nine years – from 3,740 requests and 43 languages in FY 2005 to 6,600 requests and 68 languages in FY 2013. The need to secure interpreters will only increase as the Judiciary responds to Federal and State requirements to provide interpreters for all types of court hearings and processes (such as drivers education training classes). The Jefferson audio/visual “autolog 6” recording equipment used to produce official records of the courtroom proceedings in all 14 courtrooms in Kapolei needs to be upgraded to “autolog 7” software and equipment as the vendor will discontinue production and support of the older version equipment on January 1, 2015. First Circuit is also requesting four clerk positions for its cashiering sections at its Circuit, District and Family Courts – two at Circuit Court and one at District Court to replace positions that were transferred to Family Court at Kapolei without replacement, and one for an additional supervisory position at Kapolei. The Second Circuit request in this area is for a Legal Documents Clerk to replace the position that was eliminated during the economic downturn and related funding cuts. The lack of this position along with



increased workload has created a backlog in indexing, inputting, docketing, updating, researching, following-up, and responding to cases; average overtime costs of \$15K annually to compensate for the lost position; and \$33K annually in lease costs to store 3,600 boxes of case files because the Legal Documents Branch has fallen behind in being able to review and purge these files.

The two Third Circuit requests in this area relate to security issues. The first request is for funding to hire two special duty police officers full-time to provide needed security at our Kona Family Court and our Kona Circuit/Drug Court which Department of Public Safety is currently unable to provide. Currently, Third Circuit is paying “out of hide” for such services two days a week at the Family Court on its two most vulnerable days due to the nature of the hearings being held those days (e.g., temporary restraining orders, divorces, etc.). Not having such security every weekday at these two locations leave court staff and court users at risk. The second request is for two bailiff positions – one for Kohala/Hamakua to replace a position that was eliminated during the economic downturn and one for Hilo Family Court which has only one bailiff to serve two judges. Bailiffs are needed to help with court security and to help process cases in court, among other things. As it is now, bailiffs assigned to Hilo or Kona travel two hours round trip to Kohala/Hamakua whenever court is in session. Not only is this unproductive time, but additional mileage costs are incurred by the Judiciary and other clerks in Hilo or Kona have to help absorb some of the bailiff’s duties.

The last area of concern for which the Judiciary is requesting supplemental resources are areas which affect the Judiciary overall, or affect the staff, their operations, and their performance of duties. Specifically, funding is being requested for a Capital Improvement Program (CIP) Specialist position; training of judges and staff, an identified area of concern by Judiciary employees and management, and an education specialist position; a new multi-point control unit for video-conferencing; an additional IT specialist position in Administration; and the replacement of aging computers in the First Circuit. The CIP position is essential for helping to manage, coordinate, and oversee CIP related activities at some 40 Judiciary buildings/office spaces on six islands statewide. This is especially important as we continue forward with building the new Kona Judiciary Complex which will require much of one CIP person’s time, and to help with the 19 projects totaling \$53 million that were provided during the last three legislative sessions and the additional six projects and \$8.2 million (not including the Kona Judiciary Complex) being requested this session. Two requests relate to training, the first for \$63K, partly for a one day judicial conference focusing on bias, cultural awareness, barriers to access to justice, new/revised laws, amended court rules, and innovative courtroom practices; and partly for employees to enhance their knowledge base and technical skills so as not to negatively affect efficiency or customer service. The second training request relates to establishing an educational specialist position to help expand training opportunities and coordinate such training in the Education Office. Judiciary Administration is requesting funding





for: (1) a new multi-point, videoconferencing control unit to allow for expansion of videoconferencing services and replace two existing, aging units – one that is nearing the end of its life cycle and another that does not support traditional systems such as Polycom or smartphones or tablets; and (2) establishment of an IT specialist position to replace a position that was eliminated during the economic downturn and which is needed to provide support to Judiciary programs on a wide range of applications from email to internet/intranet, mainframe database administration, and system backup, among others. Lastly, funding is being requested by First Circuit to establish a computer replacement plan that would allow replacing all its computers on a 7-year cycle, that is, one-seventh each year or about 160 computers annually. This would eliminate the “replacement in crisis” mode and “wishful” year-end funding availability methods that occur now, and which cause inefficiencies and hinder the ability of court employees to process court cases and matters in the most effective and efficient manner possible.

We are most appreciative of the House Committee on Judiciary’s approval of our total supplemental budget package, and strongly support the additional \$131K provided to our POS restoration request (from \$658K to \$789K) and for changing the requested temporary social worker position for Mental Health Court into a permanent position. However, it should be noted that the count for this permanent position was inadvertently added to our B position count (special funds) for First Circuit in the budget bill rather than the A position count (general funds) where the related funding is already located.

In summary, our supplemental budget request, including the additions from House Committee on Judiciary, is for 19 new permanent positions and approximately \$4.9 million in FY 2015, which is about 3.4% more than our current general fund budget base of \$144.4 million. We believe that this additional amount is a relatively small amount to enhance court and client services; ensure the protection of the public, employees, and clients alike; continue our emphasis on access to justice; and provide for employee training, productivity, and morale concerns and needs.

With regard to CIP requirements, these are a major item of concern as the Judiciary’s infrastructure continues to age and deteriorate, and as the population served and corresponding demand for services provided by the Judiciary keep increasing. To that end and like last year, the number one priority item in the CIP area is the Kona Judiciary Complex. While we are extremely grateful for the \$9 million provided by the Legislature last year towards construction of this Complex, we are requesting an additional \$81 million in construction funding so that we can move forward with this vitally needed project and provide our citizens in Kona with a secure, efficient, and modern court facility. Land issues and related site selection have been resolved, and the Judiciary is moving forward with design planning and work, with the Project Development Report due for publication by the design consultant in February 2014. Another



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\$6.2 million in CIP construction funding is being requested for elevator replacement at Ka‘ahumanu Hale as the nine elevators in the building are original, about 30 years old, are intermittently breaking down with repair support becoming more difficult and costly, and are old gear technology as opposed to the new gearless elevators. Lastly, some \$2 million in planning and design funds is being requested for five CIP projects - Ka‘ahumanu Hale cellblock redesign, upgrade of the air conditioning and ventilation systems at Kauikeaouli Hale (the District Court Building on O‘ahu), and the air conditioning system at the Lahaina District Court Building; upgrade of the fire alarm systems at Hoapili Hale (the Circuit Court Building on Maui), and assessment of all parking structure systems (e.g., fire sprinkler, sewage, storm drainage, and air conditioning piping) at Hoapili Hale.

The proposed supplemental budget is the Judiciary’s best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill No. 1638, H.D. 1, the Judiciary’s supplemental budget request.

Thank you for the opportunity to testify on this measure.

**William P. Kenoi**  
*Mayor*



**Walter K.M. Lau**  
*Managing Director*

**Randall M. Kurohara**  
*Deputy Managing Director*

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March 5, 2014

The Honorable Sylvia Luke,  
and Members of the House Committee on Finance  
Hawai'i State Capitol  
415 South Beretania Street, 308  
Honolulu, Hawai'i 96813

Re: House Bill 1638, HD 1 RELATING TO THE JUDICIARY

Aloha, Chair Luke and Committee Members:

Mahalo for the opportunity to express our strong support HB1638, HD 1, relating to funding of the Kona Judiciary Complex. The \$90 million appropriation for design and construction is a priority for Chief Justice Mark Recktenwald as well as our citizens. This courthouse is needed to better serve not only our residents in West Hawai'i, but citizens and attorneys throughout our island and State.

West Hawai'i has never had a single, centralized courthouse. Currently the District Courtroom and Circuit Courtroom are in the Old Kona Hospital in the Keakealani Building, while Judge Ronald Ibarra's courtroom is in the former Al's Farm & Garden location on Halekii Street in Kealakekua. Family Court facilities are located in the Lender's Document Service Building in Kailua-Kona.

We all recognize the importance of adequate judicial facilities to provide needed security, appropriate decorum, and most importantly access to justice for all of our citizens. A centralized courthouse in Kona is needed for safety, and to ensure the timely and dignified adjudication of cases.

Mahalo for your consideration.

Aloha,

**William P. Kenoi**  
MAYOR

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## OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 1638 HD1

A BILL FOR AN ACT RELATING TO THE STATE BUDGET

HOUSE COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Rep. Scott Y. Nishimoto, Vice Chair

Rep. Aaron Ling Johanson, Vice Chair

Wednesday, March 5, 2014, 2:00 PM  
State Capitol, Conference Room 308

Honorable Chair Luke, Vice-Chairs Nishimoto and Johanson, and Members of the House Committee on Finance, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 1638 HD1.

The purpose of this measure is to appropriate funds to the Judiciary for Fiscal Year 2014-2015:

Our deputy prosecutors serve at the various Kona Courthouses everyday and have seen first hand the problems in the current facilities. Although the judiciary has made improvements and do their best under the circumstances, we are deeply concerned about safety for staff, parties, jurors and witnesses. Since 2008, the Kona courts hear cases from North Kohala, South Kohala, Kona and Ka'u districts. As caseloads increase, the concerns stated below will become more pressing. We sincerely appreciate Chief Justice Recktenwald for his support for the building of the Kona Judiciary Complex.

Keakealani Building located at the old Kona hospital is the main courthouse, which houses both a circuit and district court as well as clerks offices and judiciary administration staff. It has numerous steps, which our deputies must use to enter the building, often laden with files and other equipment. Parking is scarce and efforts to obtain a dedicated stall for prosecutor and public defender were unsuccessful because of existing DAGS rules. We had one deputy fall and fracture her rib while walking with her trial box to her car, which had to be parked in the grass because there was no other parking space. She was in the midst of a felony jury trial and had to continue to work in pain.



Prisoners coming from or going to the cellblock must climb steep concrete steps in the back of the building, which is wet if it rains. We have had at least one prisoner fall with shackles, and another escape from this location. The cellblock itself is woefully inadequate. Its small space must sometimes house newly arrested defendants as well as inmates transported from the community correctional facility. There is no place for attorneys to talk to their clients or for guards to wait. ACOs set up an outdoor table under the judge's overpass to watch the cellblock door.

There are three separate locations for Kona courthouses. In all locations, quarters are very close; resulting in jurors, parties, witnesses and families forced to intermingle in the hallways, limited waiting spaces and restrooms. During criminal proceedings, it is common for family and friends of a victim and the defendant to want to come to the courthouse and observe the proceedings. Emotions can run high and people may be distressed and desperate.

Our deputies have observed jurors to appear intimidated because everyday when they arrive and leave, and at every break, these jurors must walk by supporters and family of the defendant on trial. Trials have had to halt because jurors may have inadvertently heard something improper. Deputies have been threatened by family members upset that a defendant is found guilty. The close quarters don't provide the space needed to prevent, diffuse or react to intimidation or violence. This is not safe, and a serious incident is just a matter of time.

Preliminary hearings and trials in the Family Court at the Lender's Documents Building are held in a room where victims must testify within six feet of the defendant, separated only by counsel table. This Family Court also hears juvenile matters, domestic violence restraining orders, divorces, and child welfare cases. These types of cases can be highly charged. The deputy sheriffs do their best to be present and prevent incidents but they cannot be everywhere and incidents nevertheless have occurred.

The fact that the courtrooms are located in three separate buildings has led to confusion with people going to the wrong location to conduct their business. Defendants who go to the wrong courthouse may be issued a bench warrant; attorneys and parties risk being sanctioned. A witness who appears in the wrong courthouse may result in a case being dismissed. The Kona community has only limited public transportation. A person with transportation issues cannot readily appear at the correct courtroom if he or she misunderstood their summons or subpoena.

The adult probation department is currently on the second floor of the Lenders Document Building, which does not have an elevator. Disabled defendants have to meet their probation officers in an alternate location. This is not acceptable.

The Kona community deserves a complex where all judiciary business is conducted in one location in a safe environment, and where lessons learned from other complexes built throughout the state may be applied. We urge this Legislature to enact H.B. 1638 HD1 and support the Kona Judiciary Complex.

The Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of House Bill No. 1638 HD1. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Mitchell D. Roth". The signature is stylized with a large initial "M" and a cursive "Roth".

Mitchell D. Roth  
Prosecuting Attorney  
County of Hawai'i

**TESTIMONY**

House Committee on Finance  
Hearing: Wednesday, March 5, 2014 @ 2:00 p.m.

TO: Chair Sylvia Luke, Vice Chair Scott Nishimoto and  
Members of the House Finance Committee

FROM: Calvin E. Young  
President, Hawaii State Bar Association

RE: HB1638, HD1 Relating to the Judiciary

Chair Luke, Vice Chair Nishimoto and Committee Members, as the President of the Hawaii State Bar Association, I am submitting comments in **STRONG SUPPORT** of Section 3 of HB1638, HD1, specifically item 1 on page 4 "Kona Judiciary Complex, Hawaii". The total funding request for this critically important project is \$90 million.

While this court complex is to be physically situated in Kona, this facility will serve the needs of all of the residents of the Big Island. And in the larger scheme, since State court facilities on all islands should be viewed as one cohesive network, this facility would increase the availability of access to justice for all of Hawaii's people.

The residential and visitor population of West Hawaii has grown and will continue to grow. Kona has been patient as the Legislature has generously approved funding requests in recent years for Kauai, Hilo, and most recently Kapolei.

The current Kona court campus consists of a number of small detached buildings which were not originally designed as court facilities. In fact, the office and chamber of Administrative Judge Ronald Ibarra is located in walking distance of the hospital wing where he was born. The Self Help Center established for self-represented litigants serviced by HSBA volunteer attorneys is a desk located in a former morgue facility. Opposing parties, oftentimes involved in emotional Family Court proceedings, are confined to one small facility. Security and safety are major concerns since criminal defendants, court staff, lawyers, witnesses and jurors are likewise confined to a small area.

The facility envisioned for the Kona site selected will meet current judicial needs and future projected judicial needs of West Hawaii, Hawaii County and the State as a whole.

The Board of the Hawaii State Bar Association stands united in its unwavering **SUPPORT** of the Judiciary's top priority funding request for the proposed Kona Judiciary Complex. Thank you for the opportunity to submit these observations and comments.

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**TESTIMONY**  
House Finance Committee  
House Bill 1638, HD1 Relating to the Judiciary  
Hearing: March 5, 2014

TO: Chair Sylvia Luke and members of the House Finance Committee

FROM: Carol Kitaoka  
Kona Attorney

RE: HB 1638, HD1 Relating to the Judiciary (Budget)  
\*KONA JUDICIARY COMPLEX

Chair Luke and Members of the House Finance Committee, I am an attorney residing in Kona who is employed by the Hawaii County Prosecutor's Office. I am also the Hawaii State Bar Association Board Member from West Hawaii. I am offering these comments in my personal capacity IN STRONG SUPPORT of the request for construction funds for a new Kona court complex which is listed on page 3 of this Bill.

The Kona community is in DIRE need of a court complex. Currently one Circuit Court courtroom and the Kona District Court are located in the old Kona Hospital Building along with the Department of Health in Kealakekua. A second Circuit Court courtroom is approximately one mile away. The Kona Family Court is several miles away in Kailua-Kona.

As Deputy Prosecutors we practice in all courtrooms. The Circuit Court Deputies must drive between the Circuit Courts and parking is limited, in fact, scarce is a more accurate description. We park in dirt lots or on the grass. The public is faced with the same problems of finding the right Court and finding parking. In addition, access to the Courts at the old Kona Hospital is very difficult for the disabled. The courtrooms and the parking area are on different levels and there is NO elevator.

The most pressing concern from my perspective is the safety of the public, the Judiciary employees, and the attorneys who must appear in the courtrooms. The in-custody defendants must go through the open hallways to get to the courtrooms, victims and defendants and their families and supporters are waiting in the SAME area. During jury trials, the victims and the defendants' families and supporters must wait in the same area. This may be an intimidating experience for victims who are already under stress. In addition, jurors must wait in the SAME area as defendants' families and supporters if they leave the confines of the courtroom. Jurors have reported instances of intimidation.

In closing, the State of Hawaii and the Kona community need the long awaited and promised Kona Judiciary Complex. I am humbly requesting your favorable consideration for the full funding requested by Chief Justice Mark Recktenwald for the next phase of this CIP project. Thank you for your consideration.





**LATE**

PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Representative Aaron Ling Johanson, Vice Chair  
Members, House Committee on Finance

FROM: Scott Morishige, MSW  
Executive Director, PHOCUSED

HEARING: **Wednesday, February 5, 2014 at 2:00 p.m. in Conf. Rm. 308**

**Testimony for HB1638 HD1, Relating to the Judiciary**

Thank you for the opportunity to provide comments regarding the Judiciary budget bill, HB1638 HD1. PHOCUSED is a statewide coalition of health and human services organizations committed to strengthening policies and programs that benefit the marginalized and underserved in Hawaii. Our comments relate specifically to appropriations for domestic violence Purchase of Service (POS) programs across the state of Hawaii.

In 2009, State funding for domestic violence programs were reduced dramatically due to the economic downturn. The estimated cuts in funding on just Oahu alone are estimated at \$2.4 million. While Hawaii's economy has slowly begun to recover over the past few years, funding for domestic violence services have not yet been fully restored and continue to fall short of pre-2009 levels. In addition, while there has been some restoration for domestic violence POS programs on Oahu, there has been little or no restoration of funds for POS programs on the neighbor islands.

Domestic violence services, such as those provided by State Purchase of Service providers, are critical to ensuring the safety of Hawaii's community. In particular, these services are especially critical for rural communities, such as the neighbor islands. When fewer community resources for domestic violence survivors are available, survivors often feel more isolated, risking their safety and recovery.

PHOCUSED respectfully requests that the legislature consider appropriating additional funding for domestic violence POS programs to service Hawaii's rural neighbor island communities. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at [admin@phocused-hawaii.org](mailto:admin@phocused-hawaii.org).