

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 1, 2024

1:32 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative Jesse Sumner
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Public Defender Agency

Terrence Haas - Bethel

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 238

"An Act relating to criminal mischief in the third degree; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 238

SHORT TITLE: CRIMINAL MISCHIEF 3RD DEGREE

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

01/16/24	(H)	PREFILE RELEASED 1/8/24
01/16/24	(H)	READ THE FIRST TIME - REFERRALS
01/16/24	(H)	JUD
02/26/24	(H)	JUD AT 1:30 PM GRUENBERG 120
02/26/24	(H)	Heard & Held
02/26/24	(H)	MINUTE(JUD)

WITNESS REGISTER

TERRENCE HAAS, appointee
Public Defender Agency
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Public Defender Agency.

REPRESENTATIVE JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Gave an overview of Amendment 1 to HB 238, as the prime sponsor, and answered questions.

ALEXANDER SCHROEDER, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes in Amendment 1 to HB 238, on behalf of Representative Josephson, prime sponsor.

ACTION NARRATIVE

[1:32:26 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 1:32 p.m. Representatives Carpenter, C. Johnson, Gray, Groh, Allard, and Vance were present at the call to order. Representative Sumner arrived as the meeting was in progress.

CONFIRMATION HEARING(S): Public Defender Agency

[1:33:11 PM](#)

CHAIR VANCE announced that the first order of business would be a confirmation hearing for the Public Defender Agency.

[1:33:33 PM](#)

TERRENCE HAAS, appointee, Public Defender Agency, Department of Administration, spoke to his personal and professional background, explaining that he spent the past 15 years as a public defender and superior court judge in Bethel. He informed

the committee that three years ago, he became the presiding judge for the Fourth District, which encompasses Bethel and Fairbanks. He credited his passion for public defense as the reason for leaving the bench.

[1:36:06 PM](#)

REPRESENTATIVE ALLARD asked why Mr. Haas left the bench.

MR. HAAS noted the impact from the COVID-19 Pandemic on the entire justice system. He said he felt strongly about the need to get the agency "back up to snuff," adding that recruitment, retention, and training needs more work.

REPRESENTATIVE ALLARD asked whether Mr. Haas has social media.

MR. HAAS explained that he created a social media account for the Public Defender Agency. As for a personal account, he said he might have an old Facebook account that he no longer uses.

[1:38:44 PM](#)

REPRESENTATIVE GROH asked whether Mr. Haas is on the job now and how that occurred.

MR. HAAS said his predecessor resigned, and he took over as acting public defender in the interim until the legislature confirms the appointment.

REPRESENTATIVE GROH pointed out that it is unusual for someone to leave the bench for the Public Defender Agency. He asked Mr. Haas to expound on his reason for leaving.

MR. HAAS stated that he felt called to take the position as a matter of principle.

[1:41:26 PM](#)

REPRESENTATIVE CARPENTER referenced Mr. Haas's resume and asked whether the publication, titled "Advocating for parents in rural America: A Best Practices Approach," described his approach to advocating for people in the judicial system.

MR. HAAS said that article was published during a period in his career when he handled mostly child in need of aide (CINA) cases and got an intimate understanding of those circumstances and how

difficult they are. He said he felt that he could bring his previous experience to the role of public defender.

[1:43:57 PM](#)

CHAIR VANCE opened public testimony on Mr. Haas's appointment. After ascertaining that no one wished to testify, she closed public testimony.

[1:44:42 PM](#)

CHAIR VANCE moved to advance the confirmation of Terrence Haas, appointee to the Public Defender Agency, to the joint session of the House and Senate for consideration. He reminded members that signing the reports regarding appointment to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection. There being no objection, the confirmation was advanced.

[1:45:11 PM](#)

The committee took an at-ease from 1:45 p.m. to 1:48 p.m.

HB 238-CRIMINAL MISCHIEF 3RD DEGREE

[1:48:53 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 238, "An Act relating to criminal mischief in the third degree; and providing for an effective date."

[1:49:23 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 1 to HB 238, labeled 33-LS1101\A.3, C. Radford, 2/29/24, which read:

Page 2, lines 6 - 7:

Delete "**structure, or personal property**"

Insert "**a structure, or property**

(i) belonging to a religious institution;

(ii) used to educate the public about a

religion; or

(iii)"

Page 2, lines 15 - 16:

Delete "a building, structure, or personal property"

Insert "the building, structure, or property belonging to a religious institution, used to educate the public about a religion, or"

Page 2, line 18:

Delete "personal"

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[1:49:46 PM](#)

REPRESENTATIVE JOSEPHSON, Alaska State Legislature, prime sponsor of HB 238, explained that Amendment 1 would include the grounds [of a property] and religious institutions used to educate the public in the bill.

[1:52:39 PM](#)

The committee took an at-ease from 1:52 p.m. to 1:54 p.m.

[1:54:18 PM](#)

ALEXANDER SCHROEDER, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of Representative Josephson, prime sponsor of HB 238, further explained the deletion of the word "personal" in Amendment 1.

[1:55:21 PM](#)

REPRESENTATIVE SUMNER asked whether a Facebook page would be considered property.

REPRESENTATIVE JOSEPHSON answered, "Maybe."

[1:56:17 PM](#)

REPRESENTATIVE GRAY asked how to delineate a religious institution on shared property, such as those in strip malls, for example.

REPRESENTATIVE JOSEPHSON conveyed that the property must belong to the religious institution. He provided an example.

REPRESENTATIVE GRAY asked about property leased by the religious institution and whether that property would be viewed as belonging to the institution.

[1:58:16 PM](#)

MR. SHROEDER said technically, yes, depending on the definition of "belonging."

CHAIR VANCE asked about property belonging to a religious institution that may not be used for a religious purpose [and whether that would be covered by Amendment 1].

REPRESENTATIVE JOSEPHSON said the property would have to be used for worship or any other religious purpose.

[2:00:15 PM](#)

REPRESENTATIVE CARPENTER asked whether it would matter whether the person engaging in the conduct knew that the property belonged to a religious institution.

REPRESENTATIVE JOSEPHSON described the crime as a "knowing crime" and discussed the actus reus. He said there could be a degree of negligence that could speak to a lower sentence, indicating that an accidental desecration of a religious item or institution could fall under the bill's rubric.

[2:02:06 PM](#)

REPRESENTATIVE SUMNER questioned what would happen if it was unclear that the property is a religious institution.

REPRESENTATIVE JOSEPHSON suspected that a "reasonable person test" would be applied to that scenario. He provided an example.

REPRESENTATIVE SUMNER clarified the question, sharing the example of a church that owns a car lot. He asked whether the desiccation of the car lot would be covered by the bill.

REPRESENTATIVE JOSEPHSON suspected that the desiccation of a car lot that belongs to a religious institution could not have been done knowingly.

[2:04:33 PM](#)

REPRESENTATIVE GROH considered a scenario in which a swastika is spray painted on a synagogue, which would show more of an intentional standard, he presumed.

REPRESENTATIVE JOSEPHSON said the scenario in question sounds both knowing and intentional.

[2:05:27 PM](#)

REPRESENTATIVE GRAY posed the example of an anti-Islamic sign being hung from a parking lot across from a mosque. He further explained that although the sign is not on the mosque's property, the intention is for it to be seen. He asked shared his understanding that this scenario would not qualify; however, he believed that it should.

REPRESENTATIVE JOSEPHSON agreed that it would not be a covered item. He pointed out that the scenario broached First Amendment rights and cited R.A.V. vs. City of St. Paul wherein the court found no liability. He added that the goal of the bill was not to prescribe that behavior as illegal.

[2:07:08 PM](#)

REPRESENTATIVE CARPENTER asked whether sub-subparagraphs (i) and (ii) were separated by an "and" or "or."

REPRESENTATIVE JOSEPHSON said both sub-subparagraph (i) and sub-subparagraph (ii) were "or."

REPRESENTATIVE CARPENTER sought to confirm that a building used to educate the public on religion would "stand alone," meaning that it would not need to be owned by a religious institution.

REPRESENTATIVE JOSEPHSON confirmed that it would stand alone.

[2:08:41 PM](#)

REPRESENTATIVE CARPENTER posed a hypothetical scenario in which a church rents out a gymnasium in a public school. He sought to confirm that if that space were desecrated, the conduct would be subject to the language [in Amendment 1.]

REPRESENTATIVE JOSEPHSON suggested that a smart prosecutor would charge the offender under (c)(3). In response to a follow up question, he stated that the defacement of a school that is also

used for religious worship would fall under criminal mischief in the fourth degree.

[2:11:10 PM](#)

REPRESENTATIVE SUMNER questioned whether the verbal desecration of a religious broadcast would be covered by the bill.

REPRESENTATIVE JOSEPHSON shared his understanding that the event in question would not be covered by the bill, adding that the scenario encroached on First Amendment and freedom of speech rights.

[2:12:48 PM](#)

REPRESENTATIVE GRAY asked whether the law would apply to universities offering religious studies.

REPRESENTATIVE JOSEPHSON shared his belief that if the theology department of a university were desecrated, it would meet the elements of the crime.

[2:14:22 PM](#)

REPRESENTATIVE C. JOHNSON opined that if a person were tagging various properties that happen to include a religious institution, it should not be considered desecration because religion is not the specific target. He stated his belief that there should be a distinction made between tagging and the intent to maliciously desecrate religious property.

[2:17:30 PM](#)

The committee took a brief at-ease.

[2:18:31 PM](#)

REPRESENTATIVE CARPENTER questioned the use of the word "public" and asked whether it would be too restrictive.

REPRESENTATIVE JOSEPHSON explained that if a member desecrated religious property during a private event, it would be covered under [sub-subparagraph] (i) or (iii).

[2:20:18 PM](#)

REPRESENTATIVE GRAY agreed that the words "the public" were problematic. He questioned whether the words could be removed.

[2:20:57 PM](#)

REPRESENTATIVE ALLARD moved to withdraw Amendment 1. There being no objection, Amendment 1 was withdrawn.

[2:22:01 PM](#)

CHAIR VANCE announced that HB 238 would be held over.

[2:22:36 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:22 p.m.