

## HOUSE COMMITTEE ON JUDICIARY

March 13, 2003 Hearing Room 357  
1:00 pm Tapes 81 -83

**MEMBERS PRESENT:**       Rep. Max Williams, Chair  
                                  Rep. Robert Ackerman, Vice-Chair  
                                  Rep. Gordon Anderson, Vice-Chair  
                                  Rep. Jeff Barker  
                                  Rep. Bob Jenson  
                                  Rep. Jerry Krummel  
                                  Rep. Greg Macpherson  
                                  Rep. Floyd Prozanski  
                                  Rep. Lane Shetterly

**STAFF PRESENT:**        Bill Taylor, Counsel  
                                  Nancy Masee, Committee Assistant

**MEASURE/ISSUES HEARD:** **HB 2770 Public Hearing**  
                                  **HB 2073 Public Hearing**  
                                  **HB 2115 Public Hearing**

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These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 81, A</b>		
006	Chair Williams	Opens meeting at 1:22 pm. Opens public hearing on HB 2770.
<b><u>HB 2770 PUBLIC HEARING</u></b>		
034	Bill Taylor	Committee Counsel. Explains HB 2770 that creates the crime of strangulation.
035	Rep. Prozanski	Submits letter from Legislative Counsel and testifies in support of HB 2770 ( <b>EXHIBIT A</b> ). Explains concerns of domestic violence. Explains the -1 amendments ( <b>EXHIBIT B</b> ).
075	Phyllis Barkhurst	Attorney General's Sexual Assault Task Force and member of Oregon Alliance to End Violence Against Women. Testifies in support of HB 2770. Explains that the laws are not adequate to prosecute the assault of strangulation.
100	Kris Karcher	Chief Deputy Medical Examiner, Coos County. Testifies in support of HB 2770. Describes victims of strangulation that she has seen. Explains the anatomy of the neck and how vulnerable the neck is to asphyxiation by strangulation. Explains how quickly a victim can be strangled to death.
202	Craig Roberts	Detective, Clackamas County Sheriff's Office, Program Director of Domestic Violence Team. Testifies in support of HB 2770. Describes strangulation victims in his 20 years experience. Victims' injuries range from minor injuries to death. There are sometimes no obvious signs of injury. This pattern of violent behavior is prevalent in domestic cases.
254	Gina Skinner	Deputy District Attorney, Washington County. Testifies in support of HB 2770. States that strangulation cases are very common and difficult to prosecute. Explains that strangulation

		injury is not easily apparent. Describes the inconsistency in charging this as assault.
298	Jean Kunkle	Marion County Domestic Violence Team. Agrees with Ms. Skinner's testimony.
474	Lisa Fryer	Victim of strangulation. Testifies in support of HB 2770 and explains her personal experience when her former husband strangled her in front of their 10-year-old daughter. Describes how she almost died and the emotional trauma upon her and her daughter.
<b>TAPE 82, A</b>		
058	Skinner	Explains that officers who investigate strangulations do not have specialized training to assess these kinds of cases.
074	Maile McClusky	Advocate for domestic violence victims, Clackamas County. Testifies in support of HB 2770 and gives examples of strangulation victims she has worked with. Describes how strangulation is used by assailants to control victims.
120	Elaine Walters	Lane County Health Systems, Governor's Council on Domestic Violence. Testifies in support of HB 2770 and explains there is confusion whether eminent harm has taken place in strangulation victims. Describes the terror of victims. Explains a clearly defined crime will result in more response from law enforcement and prosecutors.
141	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2770 as it is written. Submits testimony with explanation ( <b>EXHIBIT C</b> ). Proposes some requirement in the bill that shows "intent is to cause harm."
253	Rep. Prozanski	Suggests language changes that would solve problems referred to.
265	Russell	Responds she would like to see the language.
282	Rep. Barker	Comments on personal experience in law enforcement when "calming someone down" was used as an excuse for strangulation.
313	Rep. Shetterly	Asks about exemptions such as in rescuing others, for example, life guarding.
339	Russell	Responds describing "Good Samaritan" laws.
341	Rep. Shetterly	Asks about "justification" statutes in defense of others.
370	Russell	Answers there are specific exemptions; gives examples. Says there are examples that do not fit into categories and lack the "desire to do harm."
373	Rep. Krummel	Describes personal experience in sports in relation to "strangulation" as a resulting injury.
425	Rep. Macpherson	Comments on acts of violence with armed assault. Asks if assault with the bare hands is comparable to assault with arms.
465	Russell	Explains there are other ways to cause physical injury without "arms."
<b>TAPE 81, B</b>		
048	Vice Chair Anderson	Explains that some language about dental procedures should show exemptions.
056	Rep. Jenson	Discusses classifications of crimes. Asks if hands are a deadly weapon.
072	Russell	Replies that case law supports that parts of a person's body cannot constitute a weapon. It is the law's interpretation of what a weapon is.
081	Staff	Submits testimony in support of HB 2770 from Portland City

		Commissioner ( <b>EXHIBIT D</b> ).
082	Chair Williams	Closes public hearing on HB 2770. States that more work will be done on this. Opens public hearing on HB 2073.
<b><u>HB 2073 PUBLIC HEARING</u></b>		
098	Rep. Max Williams	House District 35. Testifies in support of HB 2073 that creates the State Commission on Court Facilities. Explains the serious issues in counties regarding facilities for courts.
175	Ed Harndon	Past President, Oregon State Bar. Testifies in support of HB 2073. Explains that efficient and safe handling of justice in county facilities is at stake. Describes concerns for “suitable” facilities. Describes HB 2073 as a plan for the future for court facilities.
294	Dennis Doherty	County Commissioner, Umatilla County. Testifies in support of HB 2073. Supports the -1 amendments ( <b>EXHIBIT E</b> ). Explains how the county facilities are unsafe and inadequate.
374	Paul Snider	Association of Oregon Counties (AOC). Testifies in support of HB 2073. Supports the -1 amendments.
<b>TAPE 82, B</b>		
030	Snider	Continues discussing recommendations of prioritizing in HB 2073. Discusses increases in costs and unitary assessments. Says Judicial Department will have amendments.
102	John Powell	Oregon State Sheriffs Association. Testifies in support of HB 2073 and suggests a sheriff be on this task force. Describes how security is a major issue in public buildings.
136	Bob Oleson	Judicial Administration Committee, Oregon State Bar. Testifies in support of HB 2073.
140	Marilyn Odell	Judicial Administration Committee, Oregon State Bar. Testifies in support of HB 2073 and submits ( <b>EXHIBIT F</b> ).
173	Tom Kranovich	Judicial Administration Committee, Oregon State Bar. Supports HB 2073. Says this bill will start the process of improving court facilities.
200	Mike Dugan	District Attorney, Deschutes County. Explains how district attorneys use court facilities. Supports the bill.
012	Bradd Swank	State Court Administrator’s Office. Submits testimony and testifies in support of HB 2073 ( <b>EXHIBIT G</b> ).
315	Staff	Submits testimony by the Oregon Disabilities Commission ( <b>EXHIBIT H</b> ) and the City of Eugene ( <b>EXHIBIT I</b> ).
316	Chair Williams	Closes public hearing on HB 2073. Opens public hearing on HB 2115 which allows state to have licenses psychologist examine defendant who is charged with murder and asserts defense of extreme emotional disturbance..
<b><u>HB 2115 PUBLIC HEARING</u></b>		
340	Jonathan Fussner	DOJ. Explains the defense of extreme emotional disturbance. Explains the purpose of the bill is to add licensed psychologists to that particular defense.
485	Michael Dugan	Oregon District Attorneys Association and testifies in support of HB 2115 and submits testimony ( <b>EXHIBIT J</b> ).
<b>TAPE 83, A</b>		
044	Dugan	Continues presentation on supporting psychologists as examiners in extreme emotional disturbance cases.
062	Susan Russell	Oregon Criminal Defense Lawyers Association. Opposes sections 2 and 3 and supports section 1 of HB 2115 which unnecessarily amends diminished capacity defense requirements.

112	Chair Williams	Submits testimony ( <b>EXHIBIT K</b> ).
122	Fussner	Asks what is the intent in sections 2 and 3. Responds there was no intention to expand the requirements for the notice. Says the purpose was to clarify the expert testimony for diminished capacity.
121	Dugan	Responds that mental disease or defect as a defense described as “partial responsibility” should be stated as “diminished capacity.”
150	Russell	States that “diminished capacity” should be used instead of partial responsibility.
154	Chair Williams	Suggests clarification of the language.
155	Chair Williams	Closes public hearing on HB 2115. Adjourns meeting at 3:21 pm.

### **EXHIBIT SUMMARY**

**A – HB 2770, written testimony, Rep. Floyd Prozanski, 1 p**  
**B – HB 2770-1 amendments, staff, 1 p**  
**C – HB 2770, written testimony, Susan Russell, 1 p**  
**D – HB 2770, written testimony, Staff, 1 p**  
**E – HB 2073-1 amendments, staff, 3 pp**  
**F – HB 2073, written testimony, Marilyn Odell, 1 p**  
**G – HB 2073, written testimony, Bradd Swank, 3 pp**  
**H – HB 2073, written testimony, Staff, 1 p**  
**I - HB 2073, written testimony, Staff, 1 p**  
**J - HB 2115, written testimony, Michael Dugan, 2 pp**  
**K – HB 2115, written testimony, Susan Russell, 2 pp**