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LAW OF PUBLICATION BANS, PRIVATE HEARINGS AND SEALING ORDERS

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As the Internet allows information to be instantly disseminated on a global scale, new questions about the need for and effectiveness of publication bans are arising. This book is the only work that provides a comprehensive review of the relevant statutory provisions and common law principles relating to publication bans in Canada. This resource also covers restrictions on access to courts and court information by the public and media.

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This release features updates to the case law and commentary in Chapter 1 (Open Courts and Freedom of Expression), Chapter 2 (Common Law Bans and Access Restrictions), Chapter 3 (Civil Courts), Chapter 4 (Crime), Chapter 6 (Family), and Chapter 8 (Practice and Procedure).

Highlights

- **Crime—Trials—Publication Bans—Complainant’s Sexual History**—The court applies the Sherman Estate test to the exclusion of the public from proceedings and publication bans, confirming that such exclusions can satisfy the test for confidentiality orders: *R. v. Kinamore*, 2025 CarswellBC 1704 (S.C.C.).
- **Common Law Bans and Access Restrictions—Privacy—Lower Court Authorities—Personal Health Records**—Questions of law are reviewable on a standard of correctness; and questions of fact or mixed fact and law are reviewable on a standard of palpable and overriding error unless there is an extricable question of law, which is reviewable for correctness: *Murphy v. Canada (Attorney General)*, 2025 CarswellNat 2484 (F.C.A.).
- **Open Courts and Freedom of Expression—Limits on Openness—Publication Bans—Global Electronic age—Courts Web Sites—Crime—Criminal Code—Pre-Trial Proceedings—Scope of the Ban**—The Ontario Court of Appeal gave notice in it was postponing posting to its website a decision that included information protected from publication by a ban: *R. v. I.H.*, 2025 CarswellOnt 9933 (Ont. C.A.).