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THE LAW OF BAIL IN CANADA Trotter Release No. 1, April 2024
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This unique work provides comprehensive coverage of the *Criminal Code* bail provisions and the substantial body of case law interpreting those provisions with respect to police bail, bail hearings, bail review and forfeiture proceedings.

This release features updates to the discussions on reverse onus provisions, and criteria for release awaiting appeal.

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Release Highlights

- **THE BAIL HEARING: PROCEDURE AND EVIDENCE—THE STANDARD AND ONUS OF PROOF—THE ONUS OF PROOF—Examining the Reverse Onus Provisions**—The reverse onus provision in s. 515(6)(a) of the *Criminal Code* places the burden on the accused to demonstrate why their detention is not justified in certain circumstances. These circumstances originally involved the accused being charged with an indictable offence while already on release for another indictable offence. The section has evolved to include various specific offences, such as those related to criminal organizations, terrorism, and firearms. Recently, amendments made by S.C. 2023, c. 30 have further expanded the scope of this reverse onus provision to include additional firearms offences, including possession of a prohibited or restricted weapon under s. 95.
BAIL PENDING APPEAL—APPEALS RESPECTING CONVICTION ALONE OR CONVICTION AND SENTENCE—THE CRITERIA FOR RELEASE—The Appeal is Not Frivolous—Section 679(3)(a)—In *R. v. Haevischer*, 2023 SCC 11, the Supreme Court considered the standard to be applied in criminal cases when judges are asked to summarily dismiss an application without a hearing on the merits. The Court settled on a test of “manifestly frivolous”. In creating this formulation, Martin J., writing for a unanimous court, drew upon the “not frivolous” case law, discussed above. She noted that “inevitability or necessity of failure is the key characteristic of a ‘frivolous’ application. However, Martin J. emphasized that the “manifestly frivolous” standard does not have an impact on applications for bail pending appeal “including *Oland*”.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages