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CRIMINAL LAW EVIDENCE, PRACTICE AND PROCEDURE

Gibson

Release No. 2024-2, April 2024

This publication offers step-by-step guidance to more than 60 evidentiary, procedural and practice topics that arise in criminal law practice.

This release features updates to the commentary and case law in the following chapters: 2 (Adjournments), 4 (Amendments), 9 (Arrest and Detention), 11 (Bail Procedure (Judicial Interim Release)), 12 (Bail Reviews), 15 (Change of Plea), 16 (Character Evidence), 17 (Children and Vulnerable Witnesses), 18 (Conditional Sentence Breach), and 26 (DNA Analysis).

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Relase Highlights

- **Amendments – No Amendment to Change Charge** – The Court of Appeal for Ontario found no prejudice to the defence by the trial judge’s amendment of a particularized count to be amended to include an alternate basis for conviction. In particular, the original sexual interference count had alleged only a relationship of dependency between the accused and the young complainant, whereas the sexual assault count relied upon a relationship of trust between them. Since, throughout the trial of both sexual offences, a relationship of trust had always been in issue, the appellate court found no error with the decision to grant the prosecution’s request to amend the sexual interference count by adding the relationship of trust as a basis: *R. v. R.S.*, 2023 ONCA 626, 2023 CarswellOnt 14862 (Ont. C.A.).
- **Arrest and Detention – Police Officer: Restrictions on the Power to Arrest** – According to Saskatchewan’s Court of Appeal, the discretionary power to arrest exists for the purposes of prosecution. Where the police knew that they would never prosecute the accused for a given offence, then arresting him or her for that offence must be arbitrary, and thus a violation of his or her s. 9 *Charter* rights: *R. v. Wilson*, 2023 SKCA 106, 2023 CarswellSask 456 (Sask. C.A.).

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
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