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<p style="text-align: center;">MARTIN'S CRIMINAL CODE COUNSEL EDITION Marie Henein, LL.B., LL.M. and Matthew R. Gourlay, J.D. Preceding Authors Edward L. Greenspan, Q.C. The Honourable Justice Marc Rosenberg Release No. 2, April 2026</p>
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What's New in this Update:

- Reference should be had to *R. v. Di Paola*, 2025 SCC 31, where the court clarified the operation of s. 725(1)(c) in circumstances where the conduct sought to be relied upon on sentencing is related to a charge that has been withdrawn. Facts forming part of the circumstances of an offence do not lose their relevance as aggravating factors simply because a charge based on those facts was already laid and then withdrawn. However, the prosecution must act fairly when it intends to rely on this provision, so as to avoid any conduct that would result in unfairness to the offender.

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- Reference should also be had to *Quebec (Attorney General) v. Senneville*, 2025 SCC 33, where the court re-stated the proper approach to evaluating the constitutionality of mandatory minimum sentences under s. 12 and rejected a call to abandon or modify the use of “reasonable hypotheticals”.
- Finally, in *R. v. Wilson*, 2025 SCC 32, the court held that the immunity from charge and conviction for “good Samaritans” at the scene of a drug overdose under s. 4.1 of the *Controlled Drugs and Substances Act* also entails an immunity from arrest. The court held that the strong disincentive created by the threat of arrest and the consequences that may flow from such an arrest would substantially undermine the life-saving purpose of s. 4.1 by dissuading people from seeking help from emergency services in the case of a drug overdose.

ProView Developments

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