Publisher's Note

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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

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What's New in this Update:

- Reference should be had to *R. v. G.H.* (2025), 455 C.C.C. (3d) 74, 2025 ONCA 667, which provides guidance on the timing of the right to re-elect as of right under s. 561(2). For the purpose of this provision, the "day first appointed for the trial" means a day fixed for the purpose of any step recognized by s. 650 to be part of the trial. That date does not shift if subsequent adjournments of the date are granted. A motion for production under s. 278.3 was held to be part of the trial for this purpose.

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- In *R. v. Hussein*, 2026 SCC 2, the court re-affirmed the basic framework established in *R. v. Corbett*, [1988] 1 S.C.R. 670, 41 C.C.C. (3d) 385, for editing or excluding a testifying accused's criminal record under s. 12 of the *Canada Evidence Act*. The court, however, provided some modifications to ensure consistency and fairness in its application. Trial judges should not hesitate to exercise their discretion to exclude convictions that do not have sufficient probative value on the issue of credibility to overcome the prejudice associated with admitting them. Crimes of violence generally have limited probative value on this issue.
- In *R. v. Nguyen*, 2026 SCC 10, the court held that a trial court lacked jurisdiction to proceed with a criminal forfeiture hearing under s. 16 of the *Controlled Drugs and Substances Act* after the underlying proceedings had been stayed for unreasonable delay. However, jurisdiction to conduct criminal forfeiture proceedings survives under statutory rules that operate independently of trial and sentencing, including under s. 490(9) of the Code.

ProView Developments

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