

## Publisher's Note

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<b>SEXUAL OFFENCES IN CANADIAN LAW</b> By: Hamish C. Stewart Release No. 4, December 2021
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### Publisher's Special Release Note 2021

The pages in this work were reissued in September 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the September 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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## What’s New in this Update:

This release features updates to the case law and commentary in Chapters 3 (Sexual Assault), 4 (Offences involving Children), 5 (Other Sexual Offences), 6 (General Rules of Evidence), 7 (The Rules of Evidence in Sexual Cases: Historical Background), and 8 (Rules Protecting the Complainant).

## Highlights

**General Rule of Evidence — Hearsay — Reliability** — In response to criticism that the *Bradshaw* assessment could never yield a finding of reliability, since corroborative evidence could never exclude “speculative” explanations for the content of a statement, the Court of Appeal for Ontario held that consideration of “speculative” explanations should be limited to those deemed to be reasonably plausible or plausible on a balance of probabilities: *R. v. McMorris*, 2020 ONCA 844, 2020 CarswellOnt 19036 (Ont. C.A.).

**Rules Protecting the Complainant — The Sexual History of the Complainant — Introduction** — After the Crown had led evidence that one of two young complainants had, in exchange for money or cigarettes from the accused, flashed an oncoming car, the accused appealed his conviction for sexual offences with the argument that this evidence should not have been led without a *voir dire*. Saskatchewan’s Court of Appeal rejected this argument. According to the appellate court, the evidence in question, in the context of the sexual offences charged, was not evidence of “sexual activity”, could not possibly found an inference of consent, and resulted in minimal prejudice – rather, the evidence in question served to be that of the accused’s “grooming behaviour”: *R. v. Dirksen*, 2021 SKCA 6, 2021 CarswellSask 9 (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

- Footnote text only appears in ProView-generated PDFs of entire sections and pages

