

Long road ahead for hooker law challenge

SAM PAZZANO, TORONTO SUN

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There are three certainties in the future of the landmark ruling on the prostitution laws in Ontario.

By the end of this year, the Ontario Court of Appeal will either kill or uphold the trio of anti-prostitution laws: Pimping, communicating and keeping a common bawdy house or brothel.

The next sure thing is the losing side — either the attorneys general of Canada and Ontario or the sex trade workers who challenged the law — will appeal to the Supreme Court of Canada.

And the third guaranteed element — whether these laws perish, persist or morph into something new — nothing will happen quickly.

An five-day appeal of a lower court ruling which found the laws unconstitutional wrapped up last week at Osgoode Hall. If the court issues its ruling as expected in late November or early December, the losers will seek leave — ask permission to be heard — at the Supreme Court.

Legal observers expect Canada's highest court will agree by the spring to hear the leave argument. By the fall of 2012, the Supreme Court of Canada will likely hear the Charter case.

There's no deadline for the judges to release their ruling, but they usually do so within a year, meaning it would come out in 2013.

If the highest court of the land does kill the laws, the Crown has already asked for an 18-month stay to permit Parliament to react to the ruling.

Federal Crown Michael Morris convinced the appeals court this time would be required to prevent a period of lawlessness or disorder.

The Charter-challenged laws would remain enforceable until the government either drafted new legislation shoring up weaknesses identified by the courts or introduced new laws.

If the government elected to change the laws, it could follow the Swedish model and criminalize johns. Or the politicians could criminalize prostitution itself. Such a change would allow the government to kill any argument that current laws makes working conditions unsafe for someone in a "legal" job.

In some countries, prostitution laws vary in different jurisdictions: Australia has different laws in each of its states or territories.

Ottawa could allow a bawdy house of one or two people. In the UK, a bawdy house can have one woman working alone in her own house, but not two or more people.

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