

AMENDED IN SENATE APRIL 21, 1975
AMENDED IN ASSEMBLY MARCH 3, 1975

CALIFORNIA LEGISLATURE—1975-76 REGULAR SESSION

ASSEMBLY BILL

No. 489

Introduced by Assemblymen Brown, Foran, Meade,
Vasconcellos, Berman, Kapiloff, Alatorre, Dixon, Sieroty,
Rosenthal, and Knox
(Principal Coauthor: Senator Moscone. Coauthor: Senator
Marks)

January 15, 1975

REFERRED TO COMMITTEE ON CRIMINAL JUSTICE

An act to amend Section 12912 of the Education Code, to amend Sections 972 and 985 of the Evidence Code, and to amend Sections 220, 286, 287, 288a and 290 of, *to add Section 286.5 to*, and to repeal Sections 269a, 269b, 286.1 and 288b of, the Penal Code, relating to sexual offenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 489, as amended, Brown (Crim.J.). Sexual offenses. Under present law adulterous cohabitation, sodomy, and oral copulation are crimes. This bill removes criminal sanctions from adulterous cohabitation; and it removes *specific* criminal sanctions from sodomy and oral copulation except: (1) when the sodomy *or oral copulation* is committed with a minor or by force, violence, duress, menace or threat of great bodily harm; and (2) except ~~when the oral copulation is committed with a minor, or by force, violence, duress, menace or threat of great bodily harm~~ *where the participants are con-*

fined in state prison or specified detention facilities. This bill makes sexual assault on an animal for specified purposes a misdemeanor.

Under present law sodomy with a human is prohibited as a felony in the state prison for not less than one year. This bill increases the punishment to not less than three years state imprisonment in cases of sodomy by force, violence, duress, menace or threat of great bodily harm, and in cases where the other person is 14 years of age and 10 years younger than the defendant. If the sodomy is with a person under 18, sodomy is punishable under the bill as a felony—misdemeanor by imprisonment in state prison for not more than 15 years or in the county jail for not more than one year.

This bill substantially retains the punishment for oral copulation under existing law.

The law presently also provides that commission of various sex offenses is a ground for denial or revocation of a teaching credential or certificate or for discharge or denial of employment to teachers and other school district employees. "Sex offense" is defined for such purposes by reference to the Penal Code provision prohibiting specific sexual conduct. This act provides that such reference will continue to apply to sodomy and oral copulation committed prior to the effective date of this act.

Present law excepts adultery proceedings from provisions granting a married person a privilege not to testify against his spouse and from those provisions establishing a privilege for confidential marital communications. This act revises these exceptions to reflect the elimination of adulterous cohabitation as a crime.

Under present law, a person who is determined to be a mentally disordered sex offender must register as a sex offender. This act continues to require the registration of persons determined to be sexual psychopaths or mentally disordered sex offenders under any provision contained in the Welfare and Institutions Code provisions relating to admissions and commitments to mental hospitals upon or prior to the effective date of the amendments made by this act.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.