



Under what age in your state are children presumed incapable of committing a crime?

DEFENDANT COMMITTED A CRIMINAL ACT BUT IS NOT CRIMINALLY RESPONSIBLE FOR HIS OR HER ACTIONS

Some defenses rest on the defendant's lack of criminal responsibility for his or her criminal act. In this category are the defenses of infancy, intoxication, insanity, entrapment, duress and necessity.

Infancy Traditionally, children of a very young age, usually under 7, were considered legally incapable of committing a crime. Children between the ages of 7 and 14 were generally presumed incapable of committing a crime, but this presumption could be shown to be wrong. Under modern laws, most states simply provide that children under a specified age shall not be tried for their crimes but shall be turned over to the juvenile court. Children under the specified age have the defense of **infancy**.

Intoxication Defendants sometimes claim **intoxication** as a defense—that is, they claim that at the time of a crime, they were so drunk on alcohol or high on drugs that they didn't know what they were doing. As a general rule, voluntary intoxication is *not* a defense to a crime. However, it may sometimes be a valid defense if the crime requires proof of a specific mental state. For example, Grady is charged with assault with intent to kill. He claims he was drunk. If he can prove that he was so drunk that he could not form the intent to kill, his intoxication may be a valid defense. Grady can still be convicted of the crime of assault, because specific intent is not required to prove that crime. And if Grady decided to kill someone before he got drunk, or if he got drunk to get up enough nerve to commit the crime, then intoxication would not be a defense. This is because the required mental state (the intent to kill) existed before the drunkenness.

Insanity Over the centuries, the **insanity defense** has evolved as an important legal concept. Ancient Greeks and Romans believed that insane people were not responsible for their actions and should not be punished like ordinary criminals. Since the 14th century, English courts have excused offenders who were mentally unable to control their conduct. The modern standard grew out of an 1843 case involving the attempted murder of the British prime minister.

The basic idea is that people who have a mental disease or defect should not be convicted if they don't know what they are doing or if they don't know the difference between right and wrong. About half the states and the federal government use this standard. The other states hold that accused persons must be acquitted if they lack the "substantial capacity" to appreciate the nature of the act or to conform their conduct to the requirements of law.

During criminal proceedings, the accused's mental state can be an issue in determining (1) whether the defendant is competent to stand trial,