

# Infancy

## Common Law Rule:

- **Under 7 years old:** *Irrebuttable presumption* that a child cannot form the mens rea to commit a crime (in other words, a child under 7 can't be convicted of a crime under any circumstances)
- **7-14 years old:** *Rebuttable presumption* that a child cannot form the mens rea to commit a crime
- **15+ years old:** *Same as an Adult*

## Modern Formulation:

- Minors of any age (usually under 18) are presumed not to be liable to the same degree as an adult
- States generally have separate courts and separate (lesser) punishments for minors

# Infancy (cont.)

## Different Treatment of Adults and Juveniles Relating to Jailing and Sentencing

<b>Adult</b>	<b>Juvenile</b>
Time served in State Prison	Time served in Juvenile Delinquent Facility
Prosecution called: State v.	Prosecution called: In the matter of...
Sentences can run as long as statute allows	Maximum Sentence is usually until the minor reaches adulthood (age 21)
Conviction stays on record forever	Conviction does not go on record and can't be raised in other future court proceedings
Serves sentence in State Prison	Serves sentence in Juvenile Delinquent Facility

- **Minors can be tried as adults if the crime committed is considered very serious and the court feels that it is warranted**

# Insanity

## 4 Legal Tests to Determine Insanity:

### 1) M’Naghten Rule

By reason of *mental defect or illness*:

The defendant did not appreciate the nature and consequences of his or her actions

OR

He or she was incapable of distinguishing between right and wrong

### 2) Irresistible Impulse Test

By reason of mental defect or illness:

Defendant was *unable to control* himself and avoid committing the illegal act

### 3) MPC Rule

By reason of mental defect or illness:

Defendant was *unable to appreciate* the criminal nature of the action

OR

Defendant was *unable to conform* his or her conduct to the requirements of the law

➤ The MPC rule essentially is that either of the above 2 tests is enough to lower the criminal penalty

### 4) “Durham” Test (most liberal)

Only applied in one state (New Hampshire)

The crime was a *product of mental defect or illness*

(“But for” the illness, he would not have committed the crime)

# Insanity Defense – Burden of Proof

## Possibilities:

- After defense counsel raises the insanity defense, the prosecution must prove sanity beyond a reasonable doubt, like any other element
- Defense counsel must prove insanity by a preponderance of the evidence
- Defense counsel must prove insanity by clear and convincing evidence (Constitutional problems?)

Many states use a combination of these tests; such as:

Defendant has the initial burden to show some evidence of insanity; however, once the defendant does so, the prosecution must disprove it beyond a reasonable doubt.

- **A defendant acquitted by reason of insanity can be held in a hospital until he or she is no longer a danger to society, however long that takes! (including, for the life of the defendant)**

**QUIZ TIME**

# Diminished Capacity

- Similar to insanity, but does not require as strong a showing by the defendant
- This defense attempts to show a lack of mens rea based on the fact that the defendant didn't have the capability to form the mens rea element necessary to commit the crime.
- Usually only valid for a specific intent crime because it can nullify the requisite intent
- MPC allows a diminished capacity defense although it is a difficult defense to establish.

# Intoxication as a Defense

## **Voluntary Intoxication:**

- Similar to diminished capacity
- Not a defense to most crimes, because a person should be responsible for what happens as a result of intentionally getting drunk
- Only works to negate elements of a crime
- Even if it does negate an element of the crime, the defense can be overridden by negligence or recklessness

## **Involuntary Intoxication:**

- This defense is the same as the insanity defense
- This defense is insufficient where defendant was negligent in becoming intoxicated

**Burden of proof:** Same as insanity burden of proof (see above)