

Lecture 3: The American Criminal Justice System

Part 1. Classification of Law

Part 2. Functions of Criminal Law

Part 3: Complexity of Law

Part 4: Legal Definition of Crime

Part 5: Criminal Defenses

Part 6. Changing the Criminal Law

Part 1. Classification of Law

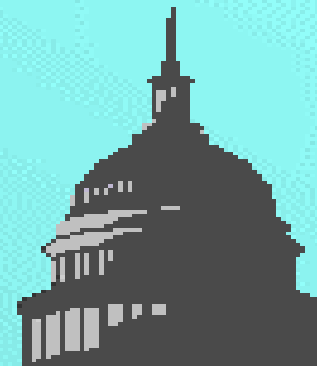


Common Law v. Statutory Law



Common Law is judge-made law. The law is found in previously decided cases.

Statutory Laws are derived from legislative acts that decide the definition of the behavior that is codified into law.





Criminal and Tort Law

- ◆ **Both seek to control behavior.**
- ◆ **Both impose sanctions (punishments)**
- ◆ **Similar areas of legal action exist:**
 - e.g.,**
 - ✓ personal assaults
 - ✓ white-collar offenses like environmental pollution

Similarities



Criminal and Tort Law



- ◆ A public offense
- ◆ Enforcement is state business
- ◆ Punishment is often loss of liberties or sometimes death
- ◆ Fines go to the state
- ◆ State doesn't ordinarily appeal
- ◆ Proof beyond a reasonable doubt

- ◆ A civil or private wrong
- ◆ Individuals bring action
- ◆ Sanction is normally monetary damages
- ◆ Both parties can appeal
- ◆ Individuals receives the compensation for harm done
- ◆ "Preponderance of the evidence" is required for a decision.

Differences

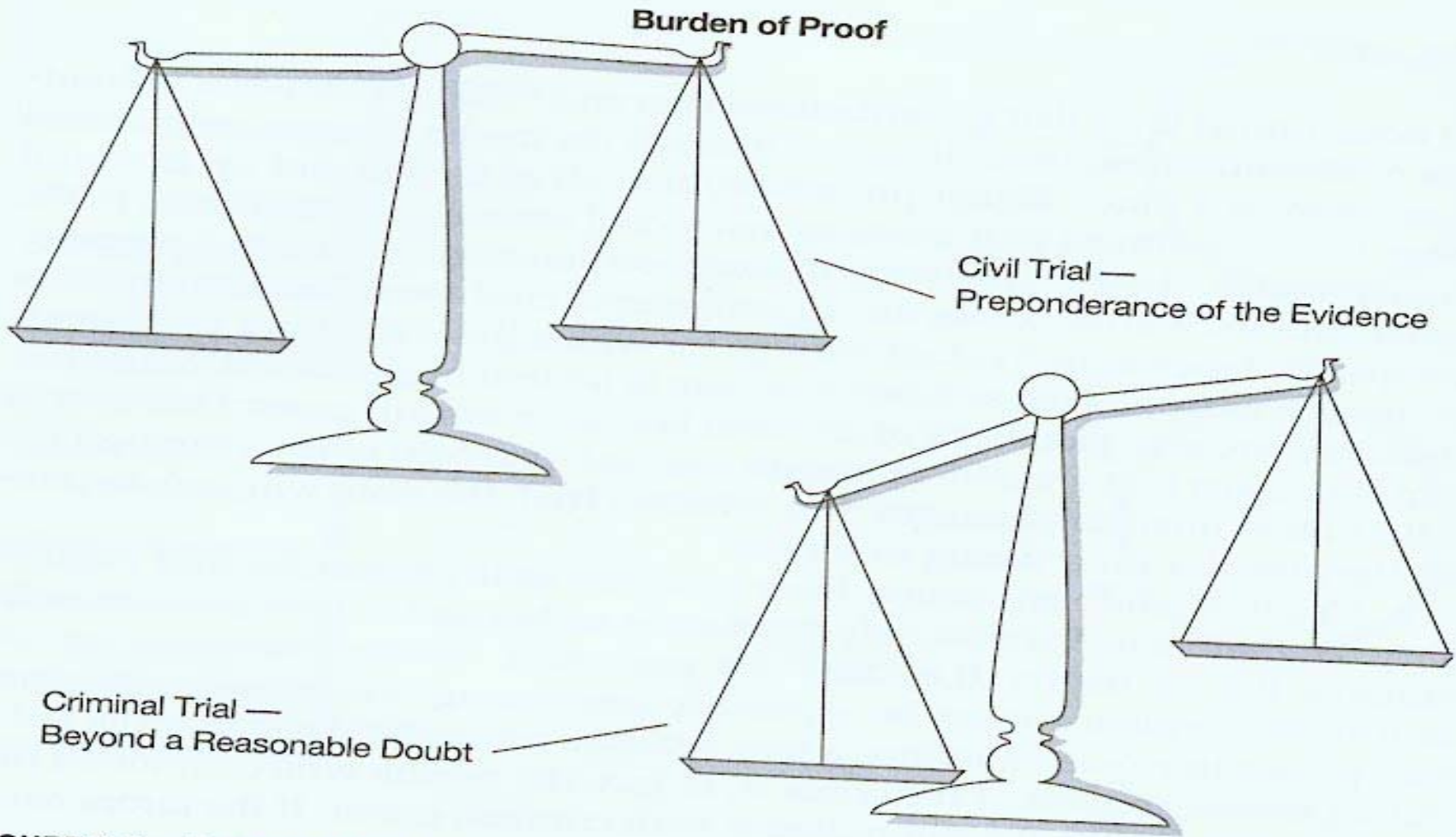
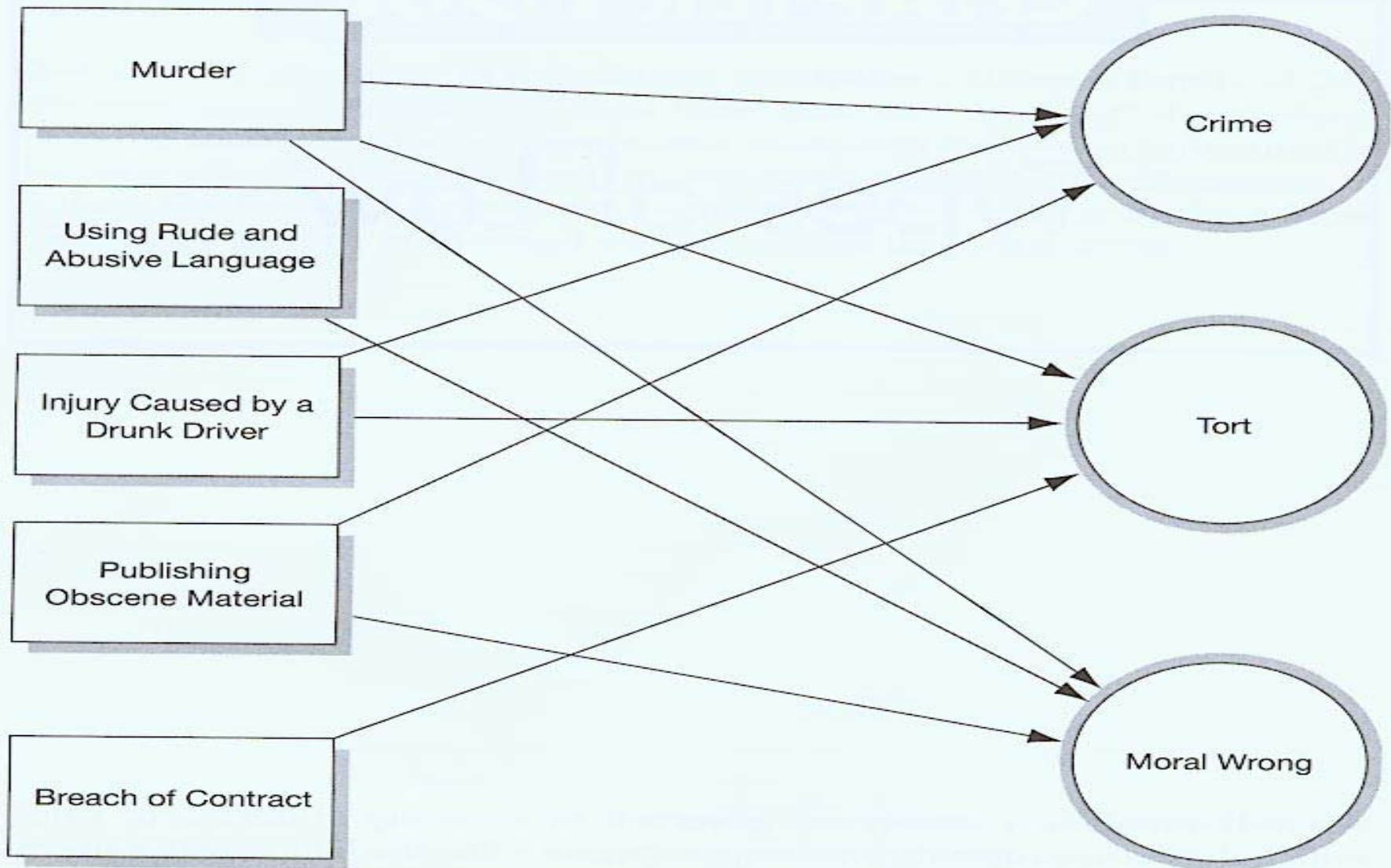


FIGURE 4-2: Burden of Proof

**FIGURE 4-1: Types of Wrongs**

OJ Simpson Found Guilty in Civil Court





Felony

More serious offenses

Punishable by death or imprisonment for more than a year in a state prison.

Misdemeanor

Less serious offenses

Punishable by incarceration for less than a year in a local jail or house of correction.

Mala in Se and Mala Prohibitum

- Mala in Se:

“Natural laws” rooted in
the core of Western
values

(assault, rape, murder)

- Mala Prohibitum

Statutory crime:
violations of laws that
reflect current public
opinion

(drug use, unlicensed
handguns)

Part 2. Functions of the Criminal Law

- 1.) Providing Social Control
- 2.) Discouraging Revenge
- 3.) Expressing Public Opinion and Morality
- 4.) Deterring Criminal Behavior
- 5.) Maintaining the Social Order

1.) Providing Social Control

- Law formalizes informal rules (norms) that control deviant behavior in society
- Laws give authority to the state third-party enforcers to do this job.

2.) Discouraging Revenge

- Vengeance and deterrence
- Law shifts the burden of retribution to the State instead of the victim



Lorena Bobbitt

When States are weak, “self-help justice” is strong.



3.) Expressing Public Opinion and Morality

- Using Mala prohibitum for legislation of laws to reflect changing social attitudes (e.g., use of marijuana, alcohol; gambling; prostitution).
- Problem of controlling the powerful (example of vagrancy laws)

4.) Detering Criminal Behavior

- General and specific deterrence
- Fines, community supervision or probation, incarceration in jail or prison, execution

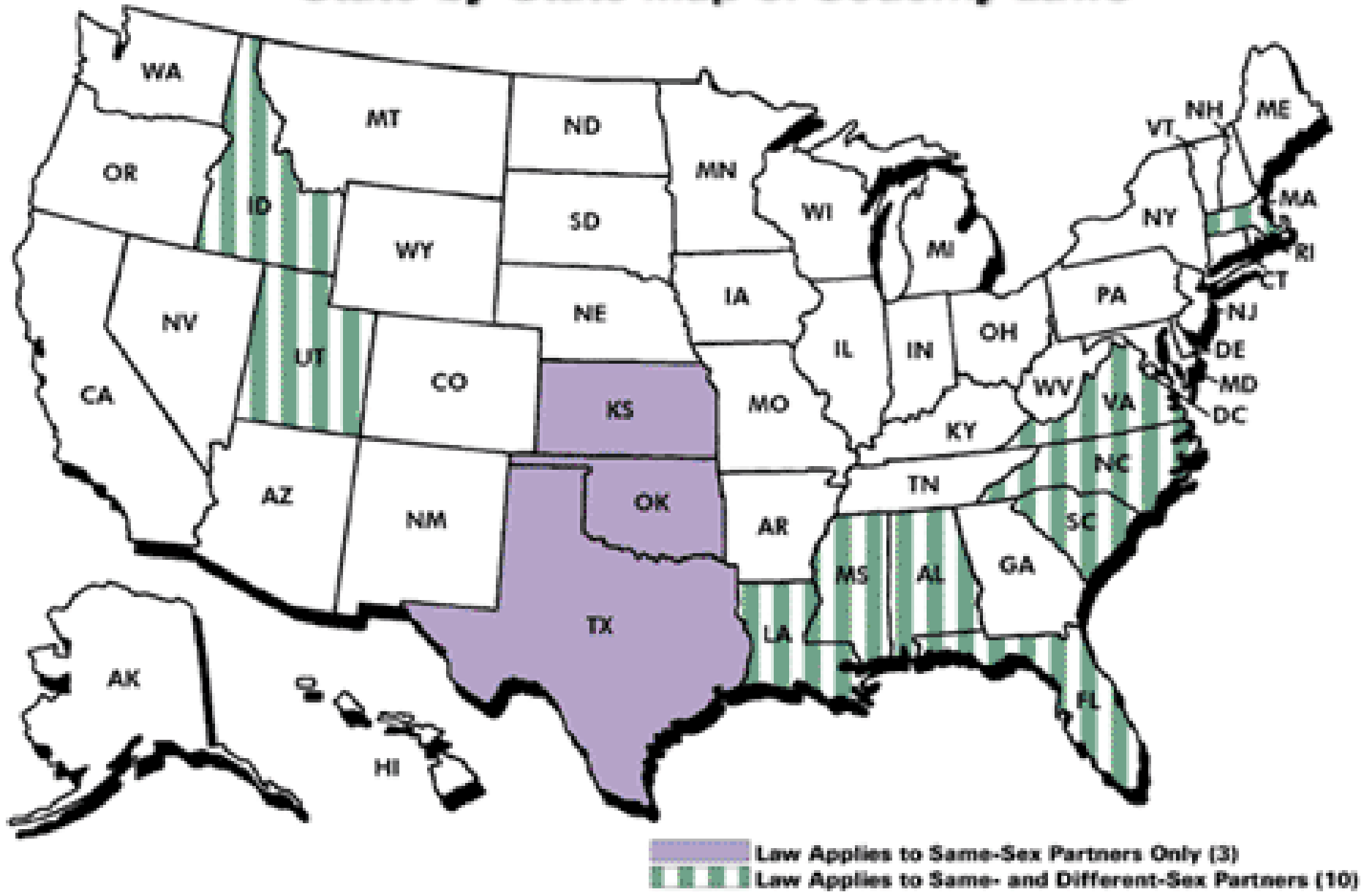
5.) Maintaining Social Order

- Business and trade depend on social order.
- Capitalism depends on the trust that property will be protected, contracts enforced, and violence deterred.

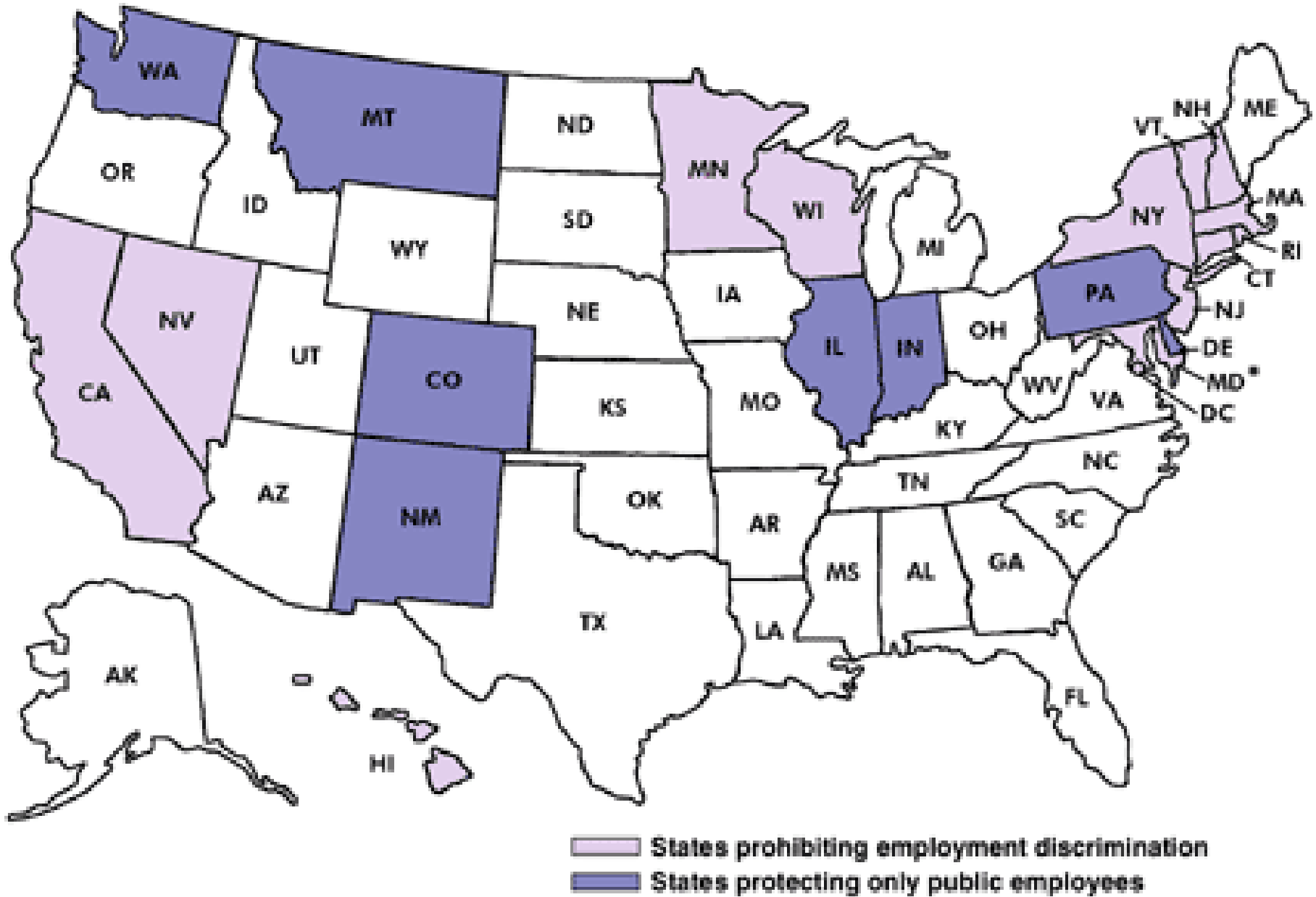
Part 3: Complexity of Law

- Laws vary both historically and regionally.
- A huge amount of variation exists between countries, states, counties, and cities in the types of substantive and procedural laws in place.

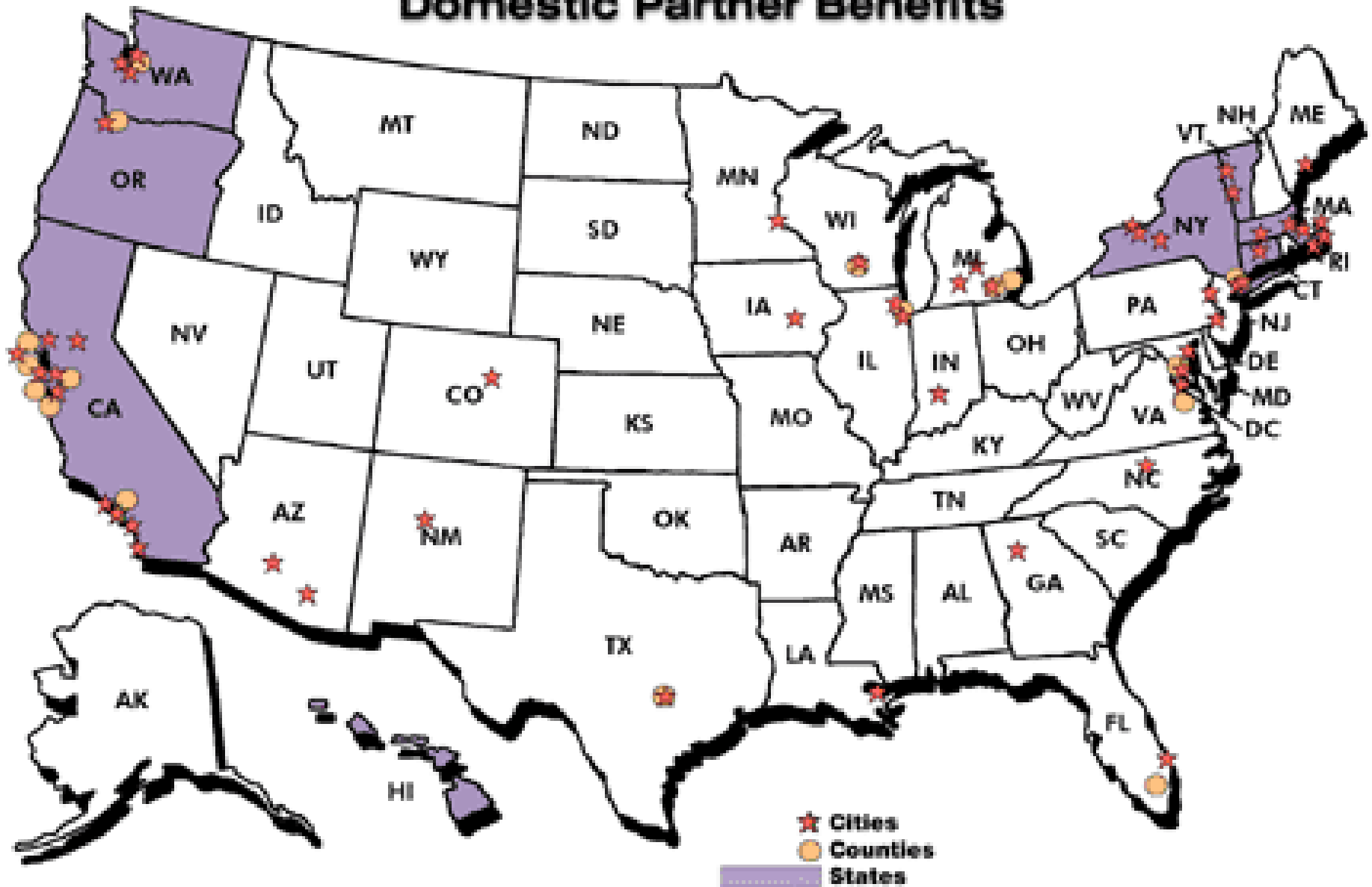
State-by-State Map of Sodomy Laws

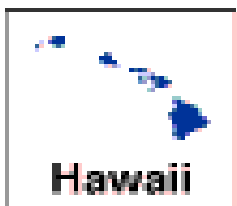
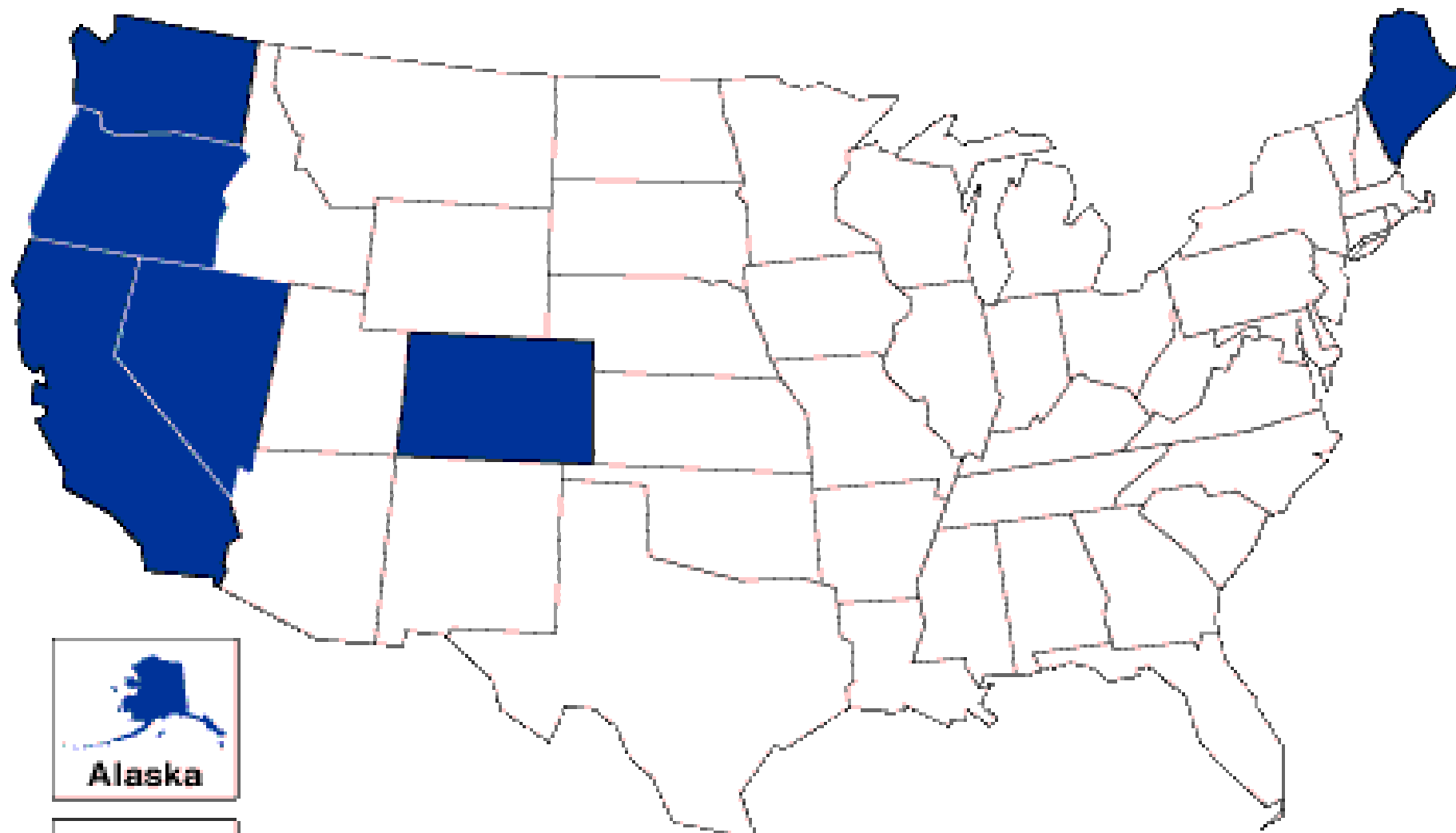


States Which Prohibit Sexual Orientation Employment Discrimination



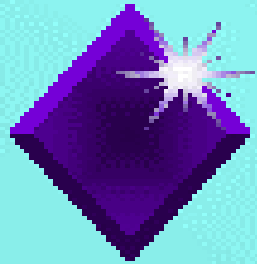
Government Employers Offering Domestic Partner Benefits





8 states have laws that protect patients who possess and grow their own medical marijuana with their doctors' approval

Part 4: Legal Definition of a Crime



A criminal law must indicate a type of criminal intent and the specific elements of a behavior that are illegal.



Actus reus

Actus reus: A commission of an illegal act itself.

1.) Commission of Illegal Act

2.) Omission to Legally Act

3.) Possession and Words

1.) Commission of Illegal Act

- For the act to be illegal, the action must be voluntary.
- Example: involuntary shooting

2.) Omission to Legally Act

A.) Relationship of Parties Based on Status
(must aid parents, child, husband, wife)

B.) Imposition by Statute (laws mandating aid)

C.) Contractual Relationship (e.g., lifeguard and swimmer; doctors and patients).

Legal and Moral Obligations

Kitty
Genovese

Oh, I knew they
wouldn't do anything,"
Winston Moseley said.
"People never do. That
late at night, they just
go back to sleep."



3.) Words

- In some situations, words are criminal acts
- Example: illegal to yell, “fire!” in public places.

Mens Rea

Mens rea: carrying out an act intentionally, knowingly, and willingly.

1.) General Intent

2.) Specific Intent

3.) Transferred Intent

4.) Constructive Intent

1.) General Intent

- Only general intent is required for most crimes. We can infer intent from the words and conduct.
- Examples (“give me your purse or I will kill you” is a threat; a pickpocket intends to steal)

2.) Specific Intent

- Some crimes require specific intent
- Example: burglary

3.) Transferred Intent

- Person intends to commit a crime against someone, but injures another party instead.
- Example: shooting the wrong person

4.) Constructive Intent

- Situations in which harm has resulted because a person has acted negligently or recklessly.
- Example: Drunk driver kills person

Strict Liability

- Several crimes do not require Mens rea—the actor is guilty simply by doing the act.
- Underlying purpose is to protect the public.
- Examples: health and safety laws, traffic laws, alcohol laws.

Part 5: Criminal Defenses

Deny the *Actus reus*

- Deny that they committed the act by saying they were falsely accused.

Deny the *Mens rea*

- Defendants admit that they committed the criminal act, the lacked the mental intent needed to be found guilty of the crime.
- Excuses: **Ignorance/mistake, insanity, intoxication.**

Deny the *Mens rea*

- Defendants admit that they committed the criminal act, but argue that the act was justified.
- Excuses: **necessity, duress, self-defense, entrapment.**

Ignorance or Mistake

- In general, ignorance of the law is no excuse
- Exceptions:
 - a.) government failed to publicize law
 - b.) Individual did not know they were committing crime (e.g., “I did not know property was stolen”).

Insanity

- Insanity is a legal category.
- A person does not necessarily need to be mentally ill or unbalanced. Their state of mind at the time of the crime only had to make them incapable of having the necessary intent.



Purpose of Insanity Defense

- Assumptions of rationality and morality.
- Most individuals know right from wrong and can make choices. However, some individuals in society have mental problems, and thus incapable of making moral or legal decisions.

Insanity: M'Naghten Rule

- In 1843, Daniel M'Naghten, believing Edward Drummond to be Sir Robert Peel (the English prime minister), killed him.
- M'Naghten claimed he had delusions, and the jury found him innocent.

M'Naghten Rule

“To establish a defense on the ground of insanity, it must be proved that at the time of the committing of the act that party accused was laboring under such a defect of reason from disease of the mind, as not to know the nature and quality of the act he was doing; or, if he did know, that he did not know he was doing what was wrong”.

Individual is insane if he or she is unable to tell the difference between right and wrong.

Andrea Yates



“I think she should be punished for what she did, considering she did know right from wrong and I think prison’s the way to go.”

Insanity: Irresistible Impulse Test

- Because of doubts about the M’Naghten rule, 15 states have supplemented it with irresistible impulse test.
- Defense of insanity for situations in which defendants were unable to control their behavior because of a mental disease.

Insanity: Substantial Capacity Test

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirement of the law.

- 1.) Combination of M’Naghten rule and irresistible impulse test.
- 2.) Broader in interpretation because it requires lack of substantial capacity instead of complete impairment as do M’Naghten rule and irresistible impulse test.

TABLE 18-3 Mental Illness and Violence**Prevalence of Mental Disorders Among a Sample of Convicted Criminals and Community Controls**

<i>Diagnosis</i>	<i>Percentage with Diagnosis</i>	
	<i>Chicago Jail Detainees</i>	<i>Controls</i>
Schizophrenia	2.7	0.9
Major depression	3.9	1.1
Mania or bipolar disorder	1.4	0.1
Any severe disorder	6.4	1.8

Prevalence of Violence Among People with or without a Mental Disorder

<i>Diagnosis</i>	<i>Percentage Violent</i>
No disorder	2.1
Schizophrenia	12.7
Major depression	11.7
Mania or bipolar disorder	11.0
Alcohol abuse/dependence	24.6
Substance abuse/dependence	34.7

Sources: Adapted from J. Monahan, 1992, Mental disorder and violent behavior: Perceptions and evidence, *American Psychologist*, 47, 516, 518; L. Teplin, 1990, The prevalence of severe mental disorder among male urban jail detainees, *American Journal of Public Health*, 80, 665; and J. Swanson et al., 1990, Violence and psychiatric disorder in the community, *Hospital and Community Psychiatry*, 41, 765.

■ Combined ■ Men ■ Women

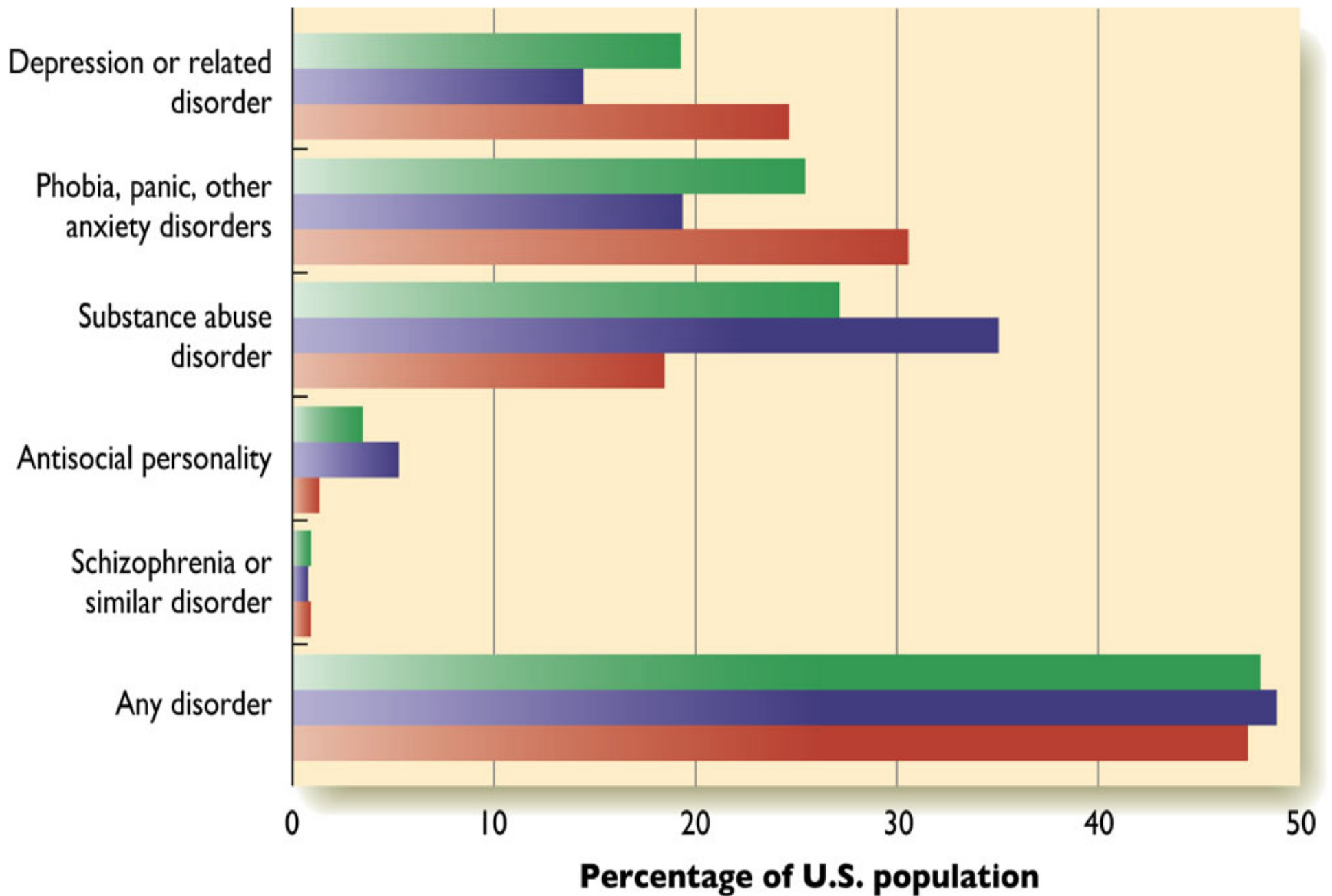


TABLE 18-1 **Developments in the Insanity Defense**

Grounds for NGRI	Mental Incapacity at Time of Crime	How Broad?	Brief History of Rule
Right from wrong	Inability to distinguish right from wrong	Narrow	Formalized in 1843 <i>M'Naghten</i> case, many states again made this only ground for NGRI following Hinckley
Irresistible impulse	Unable to control actions	Broader	Dating to 1886, this broader rule remains in effect in some states
Product test	Mental disease or defect	Broadest	Established in 1954 <i>Durham</i> case, this very broad rule was eliminated in 1972
American Law Institute definition	Inability to distinguish right from wrong <i>or</i> unable to control actions	Broader	Combination of right from wrong and irresistible impulse tests, this hybrid model law was common before Hinckley
Guilty but mentally ill	Legally responsible for crime but also mentally ill	Alternative	Recent alternative to NGRI. Defendant is <i>not</i> legally insane but may get treatment for mental illness

Controversy over the Insanity Defense

- Difficulty of measuring insanity
- Insanity issue thrown in spotlight in John Hinckely Jr. case.
- Insanity plea used in fewer than 1% of all cases (and few insanity pleas are successful).

Intoxication

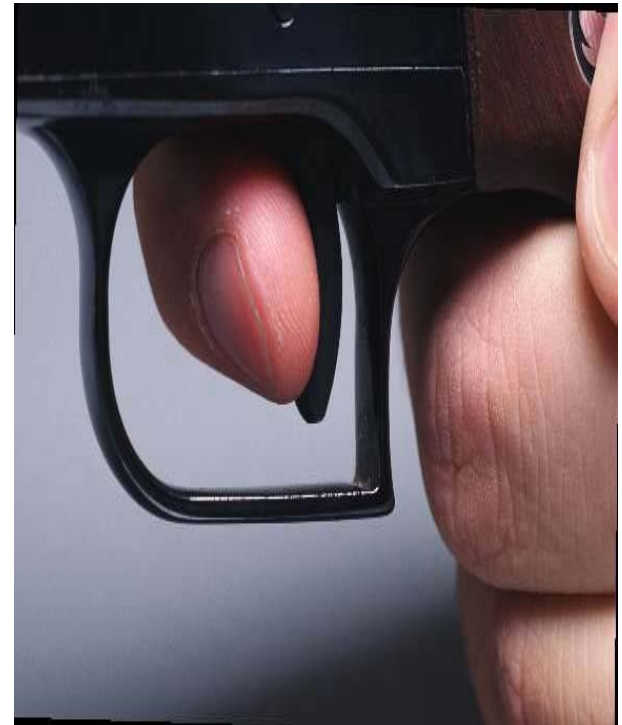
Intoxication (alcohol or drugs)
generally not an excuse.

- Exceptions:
 - a.) intoxicated by mistake, force or duress.
 - b.) voluntary intoxication is a defense when specific intent needed (e.g.. Burglary)



Duress

- Defense if defendant or third party commits crime under the threat of death or bodily harm by another.
- Exception: Murder is the greater of two evils.
Better to harm oneself than to kill another.



Necessity

- Defense applied when person must break law to avoid greater evil caused by natural forces (storms, earthquakes, illness).
- Exception: murder is a greater evil.
- *Regina v. Dudley and Stephens*

Self-Defense

- Defendant claims actions were justified response to the provocative behavior of the victim. Can be used to protect one's person and one's property.
- Defendant can be excused for use of force resulting in murder, manslaughter, assault, and battery.

Self-Defense continued

- Law Sets Limits:
 - a.) Reasonable belief that they are in danger of death or great harm and that it is necessary to use force to protect themselves.
 - b.) The amount of force must be no greater than necessary to prevent harm.
 - c.) Some states require individuals to retreat if possible.
 - d.) Reasonable non-deadly force to protect property.

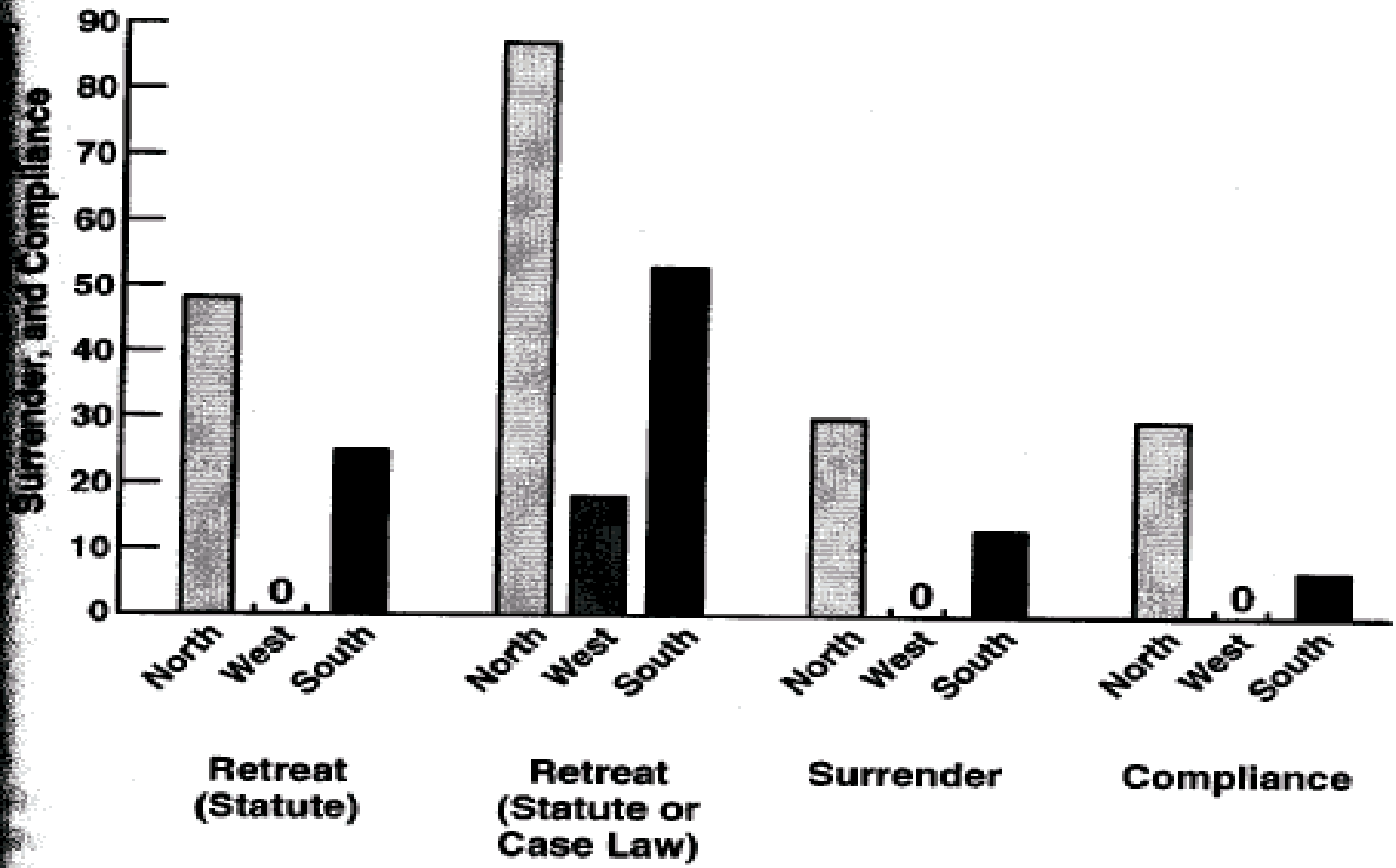


FIGURE 5.3 Percent of states in each region requiring retreat, surrender, and compliance to demands rather than killing an assailant. Source: Cohen, 1995.

Entrapment

- Defendant claims that law enforcement officers induced him or her to commit the crime. (can't be used for serious crimes, mainly for contract crimes such as drugs or prostitution.
- Example: A plainclothes police officer cannot approach a prostitute and persuade the person to commit an act of prostitution.

Part 6. Changing the Criminal Law

- **Decriminalization:** reducing fines and punishment for some “crimes” (e.g., reduced penalties for possession of marijuana in some states).
- **Legalization:** all criminal penalties removed (e.g., vagrancy).

Criminalization:
new criminal laws
created to
conform to
emerging social
issues.



Jack Kevorkian and
assisted suicide

www.
sexoffender
.com

Community notification laws
with regard to sex offenders.