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|  | Affirmative Defense  *A new fact or set of facts that operates to defeat a claim even if the facts supporting that claim are true.*  A plaintiff sets forth a claim in a civil action by making statements in the document called the complaint. These statements must be sufficient to warrant relief from the court. The defendant responds to the plaintiff's claims by preparing an answer in which the defendant may deny the truth of the plaintiff's allegations or assert that there are additional facts that constitute a defense to the plaintiff's action. For example, a plaintiff may demand compensation for damage done to his or her vehicle in an automobile accident. Without denying responsibility for the accident, the defendant may claim to have an affirmative defense, such as the plain-tiff's contributory [Negligence](http://legal-dictionary.thefreedictionary.com/Negligence) or expiration of the [Statute of Limitations](http://legal-dictionary.thefreedictionary.com/Statute+of+Limitations).  An affirmative defense is also allowed under rules of [Criminal Procedure](http://legal-dictionary.thefreedictionary.com/Criminal+Procedure). For example, a defendant accused of assault may claim to have been intoxicated or insane, to have struck out in [Self-Defense](http://legal-dictionary.thefreedictionary.com/Self-Defense), or to have had an alibi for the night in question. Any one of these affirmative defenses must be asserted by showing that there are facts in addition to the ones in the indictment or information charging the defendant and that those additional facts are legally sufficient to excuse the defendant.  The rules that govern [Pleading](http://legal-dictionary.thefreedictionary.com/Pleading) in most courts require a defendant to raise all affirmative defenses when first responding to the civil claim or criminal charges against him or her. Failure to do so may preclude assertion of that kind of defense later in the trial. |

<http://legal-dictionary.thefreedictionary.com/Affirmative+Defense>

Civil Procedure Affirmative Defenses Law & Legal Definition

An affirmative defense is a type of defense in which the defendant seeks to avoid liability by introducing new evidence not addressed in the claims of the plaintiff's complaint. Such a defense must be raised in the defendant's answer, and because affirmative defenses require the assertion of facts beyond those claimed by the plaintiff, the defendant has the burden of proof for the defense. The burden of proof is typically lower than beyond a reasonable doubt. It can either be clear and convincing or preponderance of the evidence. An affirmative defense must be timely made by the defendant in order for the court to consider it, or else it is considered waived by the defendant's failure to assert it.

<http://definitions.uslegal.com/c/civil-procedure-affirmative-defenses/>

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| **Affirmative defense** |

**Definition**  
**:** a defense that does not deny the truth of the allegations against the defendant but gives some other reason (as insanity, assumption of risk, or expiration of the statute of limitations) why the defendant cannot be held liable   
The defendant bears the burden of proof as to affirmative defenses.

<http://research.lawyers.com/glossary/affirmative-defense.html>