



2022 South Dakota Legislature

Senate Bill 159

Introduced by: **Senator Johns**

1 **An Act to exempt any person suffering from a severe mental illness from capital**
 2 **punishment.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 23A-26-3 be AMENDED:**

5 **23A-26-3.** Except as provided in this section, ~~jurors~~ a jury shall render a general
 6 verdict. ~~Special verdicts are hereby abolished, except the verdicts of "guilty but mentally~~
 7 ~~ill" and "not guilty by reason of insanity."~~ A jury may render a special verdict of:

8 (1) Guilty but mentally ill;

9 (2) Not guilty by reason of insanity; or

10 (3) Guilty but severely mentally ill.

11 **Section 2. That chapter 23A-27A be amended with a NEW SECTION:**

12 The death penalty may not be imposed upon any person:

13 (1) Who was severely mentally ill at the time of the commission of the offense;

14 (2) Whose severe mental illness was manifested and medically documented prior to
 15 the commission of the offense; and

16 (3) Whose offense was a product of the person's severe mental illness or due to an
 17 irresistible impulse that was caused by the person's severe mental illness.

18 **Section 3. That chapter 23A-27A be amended with a NEW SECTION:**

19 As used in this Act, the term, severely mentally ill, means schizophrenia with
 20 psychotic symptoms, major depression with psychotic features, bipolar disorder with
 21 psychotic features, posttraumatic stress disorder with psychotic features, or traumatic
 22 brain injury with psychotic features.

23 **Section 4. That chapter 23A-27A be amended with a NEW SECTION:**

1 For any claim that a person is severely mentally ill, the provisions of sections 2 to
2 5 of this Act, inclusive, apply to any offense alleged to have been committed by a
3 defendant after July 1, 2022.

4 **Section 5. That chapter 23A-27A be amended with a NEW SECTION:**

5 If a defendant is found guilty but severely mentally ill of a Class A felony beyond a
6 reasonable doubt, the court shall sentence the defendant to life imprisonment. The court
7 may also order the defendant to pay the fine under subdivision 22-6-1(1).