

# TOO ILL TO EXECUTE

*A resource guide with talking points and instructions for sharing the film in your church and community.*

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## **Overview of the Film:**

*Too Ill to Execute* is a compelling short film that educates the public about the need to exclude people with severe mental illnesses from the death penalty. The film brings a deeper understanding about the issue of severe mental illness and why such cases are not appropriate for the harshest penalty, a sentence of death. The film also offers specific solutions for addressing this issue.

Through legal and medical experts, as well as legislators and those who live with severe mental illness, the film explains why people with severe mental illnesses are still being executed. According to the experts, executing people with severe mental illnesses should be prohibited because these individuals are severely disabled by their illness and are not the “worst of the worst” offenders for whom the death penalty is supposedly reserved. The protracted litigation that necessarily accompanies a death sentence can create an unnecessary burden on the legal system, causing needless delays and costs, while trapping the surviving family members of murder victims in a decades-long process that is far from swift or sure.

At the heart of the film are the stories of two families directly impacted by the issue. William Morva, a man with severe mental illness, was executed in Virginia in 2017 for the murder of Derrick McFarland, a hospital security guard, and Eric Sutphin, a sheriff’s deputy. Through William Morva’s high school friends, the viewer learns about the onset and progression of William’s illness, his lack of treatment, and his inadequate legal representation at trial that did not thoroughly present his severe mental illness to the jury. Rachel Sutphin, the daughter of Eric Sutphin, is also featured in the film, sharing the pain of her loss while explaining her support of excluding those with a severe mental illness from the death penalty.

*There are three versions of the film:*

- **The complete 32-minute version** includes an in-depth telling of William Morva's story, with commentary from Rachel Sutphin, the daughter of one of the murder victims, and Maria MacBain, long-time friend of William Morva. The film also features expert commentary from: Former Ohio Supreme Court Justice Evelyn Stratton; Tennessee Republican State Senator and surgeon Dr. Richard Briggs;

Capital Defense Attorney David Singleton; Dr. Megan Testa, psychiatrist; and Tennessee Mental Health Consumers' Association President/CEO Anthony Fox.

- The **shorter 21-minute version** includes a shorter version of William Morva's story and most of the expert commentary that is in the complete version.
- The **shortest 11-minute version** includes most of the expert commentary that is in the complete version but does not delve into William Morva's story.

Below is a link to TASMIE's website video page, where you can view the film and find information about the efforts in your state to exclude those with severe mental illness from the death penalty: <http://tasmie.org/tooilltoexecute>.

### **Frequently Asked Questions:**

**Q: How many states are pursuing this type of exclusion? And has any state passed it?**

**A:** Roughly 12 states are pursuing this type of exclusion now. No state has fully passed the bill, but some have gotten it through key committees in either the house or senate.

**Q: Won't it be more expensive to incarcerate someone for the rest of his or her life than to utilize the death penalty?**

**A:** It is far more expensive to seek the death penalty than the alternative sentences of life or life without parole. The capital trial is the most expensive part of the litigation process, but the appeals are costly too. A case is often even more protracted and expensive when severe mental illness is a factor.

**Q: Can someone fake having a severe mental illness?**

**A:** Psychiatrists have reliable tests for detecting malingering. Severe mental illnesses are psychotic disorders, and while there is always the possibility of disagreement about a diagnosis, psychotic symptoms are so evident that their existence is rarely disputed. Some legislation requires a prior documented history of severe mental illness, which further reduces any potential abuse of the law.

**Q: Why is the insanity defense not helping more people with severe mental illness?**

**A:** The legal standard for not guilty by reason of insanity is a very challenging standard to meet, and juries also find it very difficult to find individuals not guilty of a crime when the evidence demonstrates that they, in fact, committed that crime. Juries also express concern that if found not guilty by reason of insanity, an individual may be hospitalized and later released without the proper supervision.

**Q: In the film, William Morva's friend says that sometimes his "insistence on things worked against him" during his trial. Do individuals with severe mental illness have a more difficult time dealing with the court process?**

**A:** Individuals with severe mental illness are more likely to be vulnerable to police pressure, to have difficulty understanding their Miranda rights and the charges that they face, to fire their lawyers in order to represent themselves, or even to confess to crimes that they did not commit.

**Q: Morva's friend believed his attorney did very little during the trial to present his mental illness to the jury—would this law change that fact?**

**A:** This kind of law would force attorneys on both sides to research and address the defendant's mental health on the front end of the proceedings, which could benefit defendants like William Morva.

**Q: Why would a juror think that someone having a severe mental illness could mean they are more deserving of the death penalty, not less deserving?**

**A:** People with severe mental illness may have a flat affect at their trial because of their medication or as a result of their illness, which may be perceived by the jury as "unremorseful." Those with severe mental illness may also be agitated or have outbursts, which can frighten a jury and lead them to believe that these individuals are more dangerous than someone without a severe mental illness

**Q: Aren't people with severe mental illness already protected?**

**A:** Under current law, those with an intellectual disability are protected from the death penalty while those with certain severe mental illnesses that include symptoms of psychosis are not.

**Q: Will this bill require more tax dollars for legal proceedings?**

**A:** Defense attorneys are already obligated to investigate mental health issues in every capital case, which includes obtaining medical and other records as well as mental health experts, in order to evaluate the defendant and review the relevant records. This bill will not require additional funds to develop this evidence but will potentially save millions of dollars if a capital trial and appeals process are avoided.

**Q: Does this take away the ability of prosecutors to seek death for horrendous crimes?**

**A:** This exclusion provides a safeguard in a small percentage of cases, not only for a defendant who is seriously impaired, but also for the taxpayers who will pay millions more for the decades of litigation that will follow sentencing someone with a severe mental illness to death. Under this exclusion, the defendant, if found guilty, will still likely spend the rest of his or her life in prison, and the sentence will provide swifter and surer justice for victims' families.

**Q: Doesn't this bill interfere with the responsibility of a jury to make the sentencing decision?**

**A:** There are groups of people that the legislature or the courts have already decided should never be subject to the death penalty, such as juveniles and those with intellectual disability. The jury will still have its say in the case; it just will be whether the defendant deserves life without parole or a life sentence with parole eligibility.

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- Follow TASMIE on Twitter: @TASMIEOrg.
- Share the video.
- Go to <http://tasmie.org/tooilltoexecute/> for more information about how to get involved in your state.