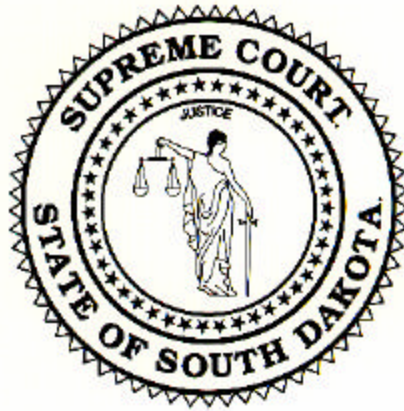
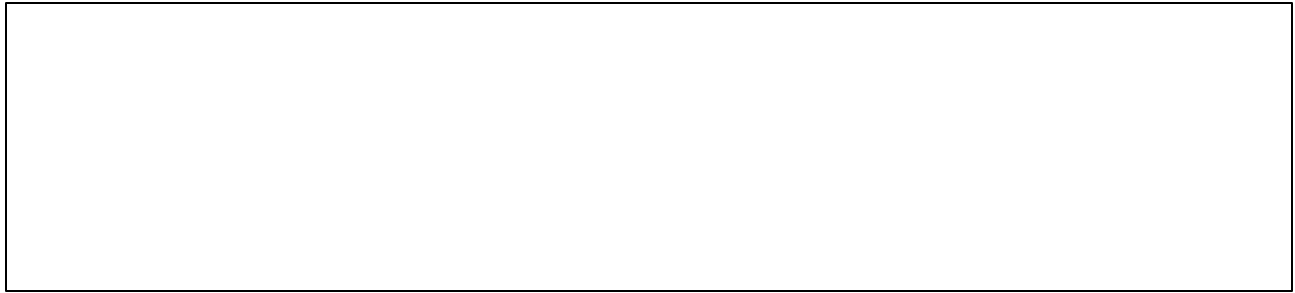


**UNIFIED
JUDICIAL SYSTEM
of SOUTH DAKOTA**



*A GUIDE
TO YOUR COURTS*



Justices of the Supreme Court, left to right: Hon. John K. Koenkamp, Rapid City, First District; Hon. Richard W. Sabers, Sioux Falls, Second District; Hon. David Gilbertson, Chief Justice, Sisseton, Fifth District, Hon. Robert A. Amundson, Sioux Falls, Lincoln County, Fourth District; and Hon. Steven L. Zinter, Pierre, Third District.

TO THE CITIZENS OF SOUTH DAKOTA:

The South Dakota Constitution divides the powers of our government among three independent branches: the executive branch led by the Governor; the legislative branch led by the President of the Senate and Speaker of the House; and the judicial branch supervised by the Supreme Court.

The South Dakota Judiciary safeguards the rights of every citizen and assures due process of law. Each of us in the Unified Judicial System assumes a special responsibility to ensure that our South Dakota courts are accessible and responsive to the state and its citizens for, ultimately, it is you the public that we serve.

It is with pride and pleasure that we present this outline and description of your South Dakota court system.

For the Court,

DAVID GILBERTSON
Chief Justice

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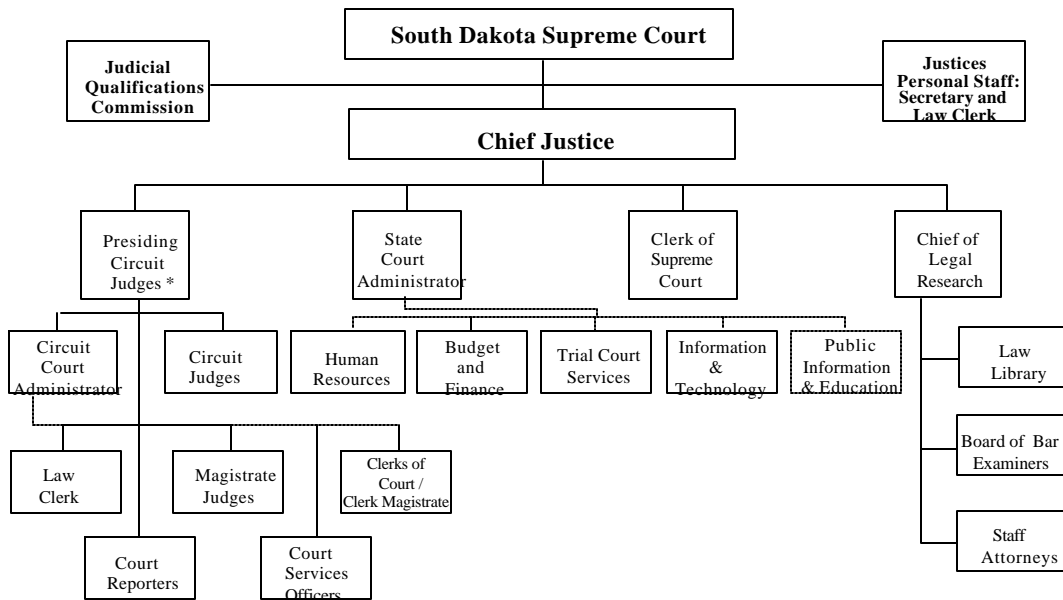
THE UNIFIED JUDICIAL SYSTEM

ORGANIZATIONAL CHART

The following chart depicts the interrelated offices of the Unified Judicial System illustrating their approximate relationship to each other. Most of these component offices

are discussed in this brochure. More information on the Unified Judicial System is available at www.sdjudicial.com

Unified Judicial System Administration Organization Chart



* One presiding judge for each circuit.

UNIFIED SYSTEM

South Dakota's courts are organized into a unified judicial system by the State Constitution. There are two levels of courts in South Dakota, the Supreme Court and the circuit courts. In addition, magistrate courts operate under the authority and supervision of the circuit courts.

The judicial power of the state is vested in a unified judicial system consisting of a Supreme Court, circuit courts of general jurisdiction, and courts of limited original jurisdiction as established by the Legislature.

*South Dakota Constitution
Article 5, Section 1*



The Supreme Court has the responsibility of administering the statewide unified court system. This includes not only the circuit and magistrate courts, but also the offices of the State Court Administrator, the

Clerk of the Supreme Court, and the Supreme Court Law Library. All court personnel are employees of the state whose salaries are paid by legislative appropriation.

PERSONNEL

Judges

The Governor appoints the five members of the South Dakota Supreme Court, known as **justices**. Every eight years, the justices run for reelection. The **Chief Justice** of the Supreme Court is elected by and from among the five justices to serve a four-year term, and may be re-elected to additional terms. The Chief Justice administers the state's unified court system.

There are 38 judges in the seven judicial circuits of South Dakota. The voters of the



circuit the judge serves elect the **circuit court judges** every eight years.

One judge in each circuit is appointed by the Chief Justice of the Supreme Court to act as the **presiding circuit judge**. Presiding circuit judges administer court operations within their assigned circuits, and meet regularly with the Chief Justice and the State Court Administrator to discuss policy regarding equal application of services throughout the Unified Judicial System.

Magistrates, appointed by the presiding judge, also serve the judicial circuits. **Magistrate judges** are licensed attorneys who serve on a full or part time basis. **Clerk-magistrates**, who are not lawyers, also serve the circuits. For more information on magistrates, see **Magistrate Court** on page 7.



The **Clerk of the Supreme Court**, appointed by the Court, is responsible for filing, indexing and preserving all Court records.

The **Office of the State Court Administrator** is the non-judicial office that assists the Court in administering the unified system through the following five service divisions.

Offices and Staff

The following staff members and offices assist the Supreme Court in conducting the business of the Unified Judicial System.

Law Clerks, usually recent law school graduates, assist in researching the specific law which must be applied to any case heard by the Supreme Court. In addition to law clerks, the justices receive clerical support from a staff of **legal secretaries** who assist in preparing opinions, rulings and correspondence.



The Court appoints a **Chief of Legal Research** who serves as Secretary to the Board of Bar Examiners, manages the Supreme Court Law Library, and supervises the court's **Staff Attorneys**. These attorneys research substantive and procedural questions, and draft rules and legislation.

- The *Division of Budget and Finance* supervises the budget of all state courts, and purchases and maintains control of court property.
- The *Division of Human Resources* administers position, salary classification and recruitment activities, and is responsible for training judicial personnel.
- The *Division of Information Technology* operates the judiciary's computerized management information systems.
- The *Director of Trial Court Services* provides guidance and support to the circuit courts to assure uniformity within clerks functions and probation services.
- The *Division of Public Information and Education* provides caseload analysis to assist the circuit courts with management decisions and provides information to the public regarding court procedures.

The State Court Administrator meets regularly with the Chief Justice and the presiding circuit judges to design and implement uniform programs and procedures for the circuit courts. These conferences also afford the executive and legislative branches of state government an opportunity to meet with the leadership of the judiciary. Through this process, governmental programs and procedures of mutual concern are developed on a more cooperative basis.



prepare transcripts on appeals, and also when otherwise requested to do so by the judge or an attorney representing either side of a case.

Each circuit employs at least one recent law school graduate as a **law clerk** who assists judges by researching laws applicable to cases heard in court.

Bailiffs are used whenever a case is tried before a jury. It is the bailiff's job to see that no one talks to or improperly influences the jury while it is hearing a case or deliberating a verdict. Bailiffs open court and maintain order when the judge requests.

Circuit Court Personnel

In each of the circuits the presiding judge appoints a **circuit court administrator** to assist with the administration of the circuit courts. The management role of the circuit court administrator or administrative assistant varies from circuit to circuit.



The **clerk of court** in each county maintains the official court files of all cases brought before the court.

A **court reporter** takes verbatim notes on all that is said in court. They

Court Services

Each circuit has a staff of court services officers (formerly called probation officers) trained to provide a wide variety of assistance to judges, offenders, and the community at large.

Under direction from the circuit judges, **court services officers** supervise adults and juveniles who

are placed on probation by the courts. In each circuit a **chief court services officer** is appointed by the presiding circuit judge to





supervise the other court services officers and to work in cooperation with the Director of Trial Court Services to provide a variety of services to those individuals under probation.

Court services officers conduct predisposition investigations and recommend to the sentencing judge plans for dealing with juvenile and adult offenders who may be placed on probation. In preparing these plans, the court services officer takes into account public safety, victim and community restoration, and identifies ways to increase an offender's skills so that they can be productive

citizens. The officers also provide supervision, counseling and community referral services to those placed on probation.

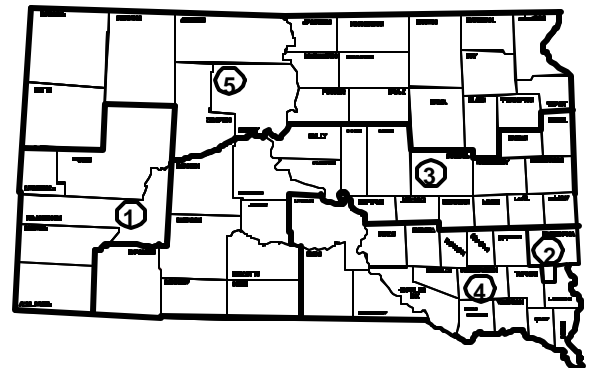
Working with various government and private providers, court services is able to offer intensive community based services as an alternative to committing individuals to the Department of Corrections for incarceration.

Court services officers also screen juvenile cases before preparation of formal charges. This screening separates cases requiring formal prosecution from those that can be handled more effectively by other agencies in the community. Often it is in the best interest of the child and the community to divert the case from the courts, especially for minor offenses.

THE SUPREME COURT

The Supreme Court is comprised of five justices appointed by the Governor from a list of two or more nominees selected by the Judicial Qualifications Commission, discussed on page 18. Following appointment and after serving on the Court for three years, each justice must withstand reconfirmation at the next statewide general election, and reelection every eight years thereafter. The following map shows the Supreme Court Appointment Districts effective July 1, 2001.

South Dakota Supreme Court Appointment Districts
Effective July 1, 2001



The Supreme Court is the highest court of the state. It consists of a chief justice and four associate justices... All justices shall be selected from compact districts established by the Legislature, and each district shall have one justice.

*South Dakota Constitution
Article 5, Section 2*

The Supreme Court has original jurisdiction over many proceedings, which means the matter is filed directly with the Supreme

Court. Some original proceedings include writs of mandamus (orders stating that certain acts may not be performed), many kinds of motions, and advisory opinions requested by the governor.

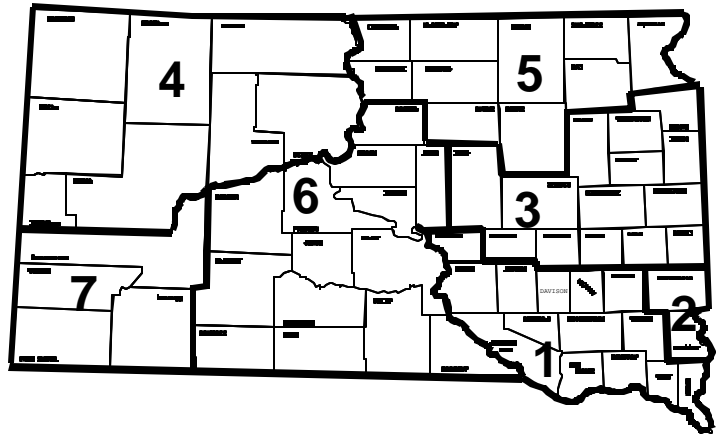
The South Dakota Supreme Court most often serves as an **appellate court**, hearing appeals of circuit court decisions. Refer to the section on **Appellate Procedure** on page 16 for more information about this court function.

JUDICIAL CIRCUITS OF SOUTH DAKOTA

Circuit Courts

The circuit courts are the trial courts of the Unified Judicial System. The Supreme Court establishes the number of circuits, their boundaries, and the number of judges in each circuit. There are currently 38 circuit judges serving the seven judicial circuits. The voters of the circuit elect judges to serve eight-year terms.

All circuit court judges hear both civil and criminal cases. In cases tried without a jury, the judge decides the case. In cases tried before a jury, the judge rules on what evidence may be considered by jurors on reaching their



verdict. The judge also instructs the jury on points of law pertaining to the case.

Magistrate Courts

Both magistrate judges and clerk-magistrates staff each circuit.



Clerk-magistrates, also called lay magistrates, are not licensed attorneys. They are authorized to conduct the following functions:

- ? Perform marriages (varies by circuit);
- ? Set bond in criminal cases;
- ? Accept guilty pleas and impose fines for minor criminal cases and violations of municipal ordinances in accordance with a schedule fixed by the presiding circuit judges;
- ? Conduct preliminary hearings in criminal cases unless the accused demands that it be heard before a circuit judge or magistrate judge;
- ? Hear uncontested civil and small claims cases; and
- ? Issue arrest warrants and search warrants.

Magistrate-judges are lawyers admitted to the State Bar of South Dakota. Both full and part time magistrate judges hear criminal cases involving less serious crimes and civil cases involving small amounts of money.

In addition to the functions performed by clerk-magistrates, they may also:

- ? Hear contested small claims cases, contested civil cases involving suits for money judgments, and misdemeanor criminal offenses;
- ? Conduct preliminary hearings in all criminal cases; and
- ? Hear cases and impose finds and sentences in any criminal action or municipal ordinance violation where the sentence does not require imprisonment in the state penitentiary.

They may sentence people to serve time in the municipal or county jail.



JURIES AND ATTORNEYS

Master Jury Lists

The **master jury list** is comprised of a county's voter registration list supplemented by the county driver license list. A master jury list, assembled for use for a full year, is the list from which a new panel of prospective jurors is drawn. A panel is drawn for each term of court occurring during that year.

Juries are usually made up of twelve jurors, but the parties may agree to a six-member jury. In civil cases five-sixths of the jury must agree on a verdict, but in criminal cases the jury must come to a unanimous agreement on the verdict.

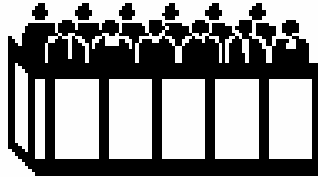
Grand Jury

Comprised of six to ten citizens selected from the county master jury list, the **Grand Jury** has broad investigatory powers empowering it to:

- 1) inquire into misdemeanors and felonies that are committed and triable in its county;
- 2) investigate and inspect jails and inquire into their management; and,
- 3) investigate alleged misconduct of public officials within its county.

The grand jury may call witnesses, require sworn testimony, and demand that records and other evidence be produced in addition to whatever evidence or information is provided by the state's attorney. The grand jury may call on either the state's attorney or the judge to seek advice concerning the law and legal procedure.

Because grand jury proceedings are not open to the public, the only person permitted to attend sessions is a witness called to testify. Even the state's attorney and judge may not be present while the grand jury is discussing or voting on a case.



After its investigation, the grand jury can return an indictment (a statement charging that a crime has been committed) or determine that no crime has been committed. Under an indictment, the defendant is brought before a circuit judge for arraignment and trial.

Traditionally in state courts, the grand jury has been used to investigate alleged crimes in public office and criminal events requiring a special investigation by a judicial body before charges are brought.

Jury Trial

The Constitutions of the United States and South Dakota guarantee a defendant the right of trial by jury when one is accused of an offense punishable by imprisonment. The petit jury, or trial jury as it is commonly called, decides the outcome of civil or criminal trials. Jurors are selected at random from the county's master jury list for each term of court.

The first step of the trial is "voir dire", the process of questioning potential jurors, intended to assure that the jury selected is fair and unbiased. Attorneys for both sides, and sometimes the judge, question potential jurors to determine the jurors' ability to render an unbiased verdict.

The jurors hear testimony and view the evidence offered during the trial. After all evidence has been presented, the judge instructs the jury on the law to be applied to the evidence presented, and explains the different verdicts that may be returned. After closing arguments by the attorneys, the jurors are sent



to the jury room to deliberate in private until they reach a verdict.

While the judge interprets the law in every case, the jury in a jury trial is responsible for determining the facts based on the evidence presented. The jury's verdict reflects these facts as they relate to the law. Thus, each citizen who serves as a juror has a very important role in the administration of justice.

Prosecution

The **Attorney General**, elected by the citizens of South Dakota, is the principal law enforcement officer in the state. As such, the Attorney General maintains general supervision over enforcement of state laws through the elected state's attorneys. The Attorney General and the state's attorneys are not members of the judiciary or the Unified Judicial System.

When requested, the Attorney General renders legal opinions to state's attorneys or various government departments. Also, when requested by either the Governor or the State Legislature, or when the welfare of the state demands it, the Attorney General represents the state in criminal or civil actions brought in any court.

A **State's Attorney** is elected in each organized county in the state to defend or prosecute all civil or criminal actions for the state or county when the state or county has an interest in the suit. Depending on the volume of legal activity involving a county, the state's attorney position may be part-time or full-time.



Defense Counsel

In criminal cases, the defendant has the right to be represented by a lawyer. If the defendant wants a lawyer and cannot afford to hire one, it is the court's duty, in cases involving a sentence of imprisonment, to appoint a lawyer to represent the defendant at public expense. Often, a defendant placed

on probation is required as a part of his sentence to reimburse the county for his court appointed attorney.

In Lawrence, Pennington and Minnehaha Counties in South Dakota, a public defender's office has been set up at county expense. In these places, the public defender represents defendants who cannot afford a lawyer.

It is important to remember that even though they are paid by the public, an appointed counsel or a public defender must work for the defendant by doing the same things that counsel paid by the defendant would do.

CRIMINAL CASES

Petty Offenses

A **petty offense** is a violation of state law that has a maximum penalty of not more than a \$20 fine. Some of the more common petty offenses are non-moving traffic violations, use of motor vehicles that have improper or defective equipment, or use of vehicles that do not have accessories or equipment as required by law.



When a law enforcement officer stops someone for commission of a petty offense, The accused may do one of four things:

- (1) If they have a South Dakota driver's license, they may give a written

promise to appear in court;

- (2) If they do not have a South Dakota driver's license, they may sign an **admission** and either mail the fine deposit to the clerk of court's office while in the presence of the arresting officer, or accompany the officer to the clerk's office to personally make the deposit;
- (3) They may make a deposit as set forth in number 2 above, but without an admission. If the accused does this, the officer must notify them in writing that failure to appear after making a deposit will be deemed an admission of guilt to the offense and the deposit is forfeited; or
- (4) They may appear in court for a hearing. If the accused appears and denies the allegations a court trial, not a jury trial, will be held. Jury trials are permitted only when one is accused of an offense that is punishable by imprisonment.



Misdemeanors

A **misdemeanor** is any crime for which the maximum penalty is something less than imprisonment in the state penitentiary.

Misdemeanors are divided into two classes distinguished by their maximum penalties.

- Class 2: maximum sentence of thirty days in a county jail, a two hundred dollar fine, or both.
- Class 1: maximum sentence of twelve months in the county jail, a one thousand dollar fine, or both.

At their first court appearance for a misdemeanor the accused must be informed of their constitutional rights and of the charges against them. The accused must plead guilty or not guilty to the charge, or may, with court approval, plead no contest. If the accused pleads guilty or no contest, sentence is pronounced by the judge. If the accused pleads not guilty, they may request a jury trial if permitted by law.



Moving traffic violations are, for the most part, classified as misdemeanors. Whenever a person is arrested for a misdemeanor traffic violation, the arresting officer obtains the violator's name, address, driver license number and



the vehicle license numbers. The officer then issues a **summons**, which states the time and place at which the violator is to appear. After signing a written **promise to appear**, the violator may be released from the officer's custody. An intentional violation of this promise to appear constitutes a Class 2 misdemeanor. If the violator refuses to sign the promise to appear, he will immediately be taken before the nearest magistrate or judge.

Misdemeanor convictions in magistrate court can be appealed to circuit court.

Felonies

A **felony** is a crime punishable by imprisonment in the state penitentiary or death. Felonies are divided into eight classes, distinguishable from each other by their maximum penalties. Felony cases begin by filing with the court a **complaint**, an **Information**, or a **Grand Jury Indictment**, any of which must list the charges against the defendant.

After an **arrest warrant** is issued, the defendant is brought before a magistrate or circuit judge for **arraignment**. At the arraignment,



- The complaint or information is read to the defendant.
- The defendant is informed of his rights, including the right to an attorney;
- A trial date is set; and
 - Bond may be set to ensure the defendant's appearance at trial.

If the proceeding was commenced by an information, the defendant has the option of requesting a preliminary hearing. At this hearing the magistrate or judge determines:

- 1) Whether the state has enough evidence to show that a crime has been committed, and
- 2) That there is probable cause to believe the defendant committed the crime.

If the judge determines that the state has established these two things, or if the defendant waives the right to a preliminary hearing, the defendant is bound over to stand trial in circuit court on the charges. In cases where the defendant was indicted by a grand jury, the preliminary hearing is bypassed and the defendant is arraigned.

When appearing in circuit court the defendant is asked to plead either guilty



or not guilty to the indictment. If the plea is guilty, there is no trial and the judge sentences the defendant. If the defendant pleads not guilty, a date is set for jury trial. The defendant may choose to waive the jury trial and be tried by the judge. If acquitted, the case is over and the defendant is released. If convicted, the court sentences the defendant.

A defendant can not be tried again for charges arising from the same incident if the court or jury has found the defendant innocent of the charges. If the defendant feels an error (or errors) was made during the circuit court trial, the conviction may be appealed to the state Supreme Court.

CIVIL CASES



When a person believes they have been injured or damaged by another person, they may visit with an attorney to explain their side of the issue or incident. The attorney evaluates this information to determine if the person has a case. To assist in this determination, the attorney may interview possible witnesses and study statutes and prior court decisions. If the attorney believes the client has a case the attorney prepares a **complaint**, which is a written claim against the other party. The complaint is filed with the clerk of court in the county where the action is to be tried.

Based on this complaint, the client becomes the **plaintiff** in the suit and the party against

whom the suit is brought becomes the **defendant**. The defendant is served the complaint along with a **summons**, a formal notice that a lawsuit has been started against the defendant. Usually the defendant consults with an attorney who will prepare an **answer** to the complaint. Copies of the answer are served on the plaintiff's attorney and filed with the county clerk of court.

When the complaint, answer and other pretrial papers have been filed, the case is ready to be heard. Discussions between the parties' attorneys may result in settlement of the case without a trial. If no settlement is reached, a



trial date is set on the court's calendar. A judge hears civil cases unless one of the parties to the suit demands a jury trial.

Small Claims Court

The Supreme Court has established rules that provide a simple, informal method of deciding claims of \$8,000 or less. This procedure provides a way to present a claim against another person with a minimum of expense and without hiring a lawyer. The procedure may be used in all claims involving a written or spoken **contract**, an agreement between two parties.



Anyone wishing to begin a small claims action should go to the county clerk of court's office (or to a magistrate) to obtain the proper forms and a copy of the UJS pamphlet entitled Small Claims Court which explains the small claims procedure.

Once the required **statement of facts** has been completed, the clerk will assist the claimant by filing the suit, sending a copy of it by certified or registered mail to the defendant, and setting a court hearing date. A fee, which varies based on the amount of damages sought in the suit, will be charged to file the action. The clerk will also charge the claimant the postage needed to send the complaint to the defendant.

If the case goes to hearing under the small claims procedure, the clerk or magistrate will issue, when requested by either party to the suit, subpoenas to require witnesses to appear at the hearing.

If the hearing is **contested** (denied by the defendant) it is held before a circuit court or magistrate judge. Each side is given an opportunity to present its case, and the judge asks questions to make sure all of the facts are presented. In most cases, the judge will decide the case at that time. There is no appeal from a decision in small claims court.

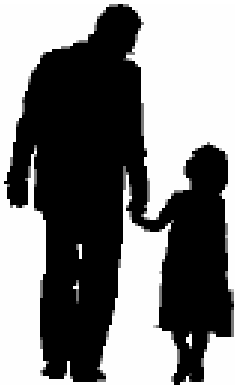
When a plaintiff files a small claims action, the right to a jury trial may be waived. However, the defendant has the right to move the case out of small claims court by filing a special request with the court, allowing the action to become a civil suit.

The small claims procedure, available to everyone, is the fastest, least expensive, and least complicated method of settling disputes over limited sums of money.



Probate and Guardianships

Probate and guardianship filings frequently come before circuit courts. When a person dies, their **estate** (property) must be distributed to their heirs. **Probate** is the legal process by which estates of deceased persons are distributed. The function of the court is to protect the property rights of the decedent in passing property to their heirs.



Guardianships are created to protect the property rights of minors, to represent minors who are involved in lawsuits and to protect the rights of persons who are mentally incompetent.

Juvenile and Family Relations

The circuit court is responsible for handling hearings on law violations committed by juveniles. State's Attorneys conduct intake screenings to assure that only those juveniles who require the court's attention are taken before the judge for a formal hearing. Juveniles who present a threat to themselves, their families or to the community at large are



formally charged and their cases supervised by the court.

Juveniles not requiring a formal hearing are diverted to court services for diversion services, or to a court approved diversion program operated by state attorney's such as Teen

Courts, or may be referred to community-based social service agencies for proper treatment and handling. Because of the nature of the juvenile, the offense, or the family circumstances, it is often in the best interest of the child, the child's family and the community to divert the case from the courts, especially when the offense is minor and relates directly to family problems.

At times parents cannot cope with the pressures of their responsibilities and they cause emotional and physical harm to their children. It then becomes the court's duty to provide protective services to the child. Examples of such cases include nonsupport, dependency, neglect, and child abuse.

Additionally, circuit courts hear family relations cases involving divorce, legal separations, annulments, and child custody.

APPELLATE PROCEDURE

SUPREME COURT

Cases tried before a circuit court can be appealed to the Supreme Court if the party appealing the decision believes that an error (or errors) was committed during the circuit court trial that adversely affected the trial's outcome.



Under South Dakota law, civil appeals to the Supreme Court can be filed anytime within 60 days after final judgement is handed down in circuit court. Appeals of criminal trial judgments must be filed within 30 days after final judgment is handed down in circuit court. The following time periods allow parties involved in the appeal to prepare their case for argument before the Supreme Court.



Within 10 days after filing a notice of appeal the attorney for the **appellant** (party who files the appeal) must

order a transcript of the trial from the circuit court reporter. The court reporter has 45 days to prepare the transcript, unless an extension is requested.

After the trial transcript has been received, the appellant has another 45 days during which to file a brief with the Clerk of the Supreme Court. This brief must identify the errors that the appellant believes were committed at the trial and must cite case law in support of these contentions.

Once filed, a new 45-day period begins during which the **appellee** (non-appealing party) must file a brief. This brief must answer the points raised by the appellant and cite statutory and case law in support of the appellee's position.



Following the filing of the appellee's brief, a 15-day period begins during which the appellant may file a reply brief in answer to the points contained in the appellee's brief. Therefore, it is possible that an appeal will not be ready to be heard until seven months after the lower court handed down a decision.

Without asking for prior approval from the Supreme Court, each of the attorneys in an appeal can stipulate to extend the time for filing their brief by fifteen days. If such

stipulations are entered on each brief, an additional month would be added before an appeal is ready for argument before the Court.

Once all of the foregoing steps have been completed, the case is ready for consideration by the justices.

In selected cases, attorneys for the parties appear to argue the points contained in their briefs directly to the Court. The Court hears such cases '**en banc**,' meaning that all five justices hear the case. In presenting a case before the Supreme Court, the appellant usually has 20 minutes to present their case and appellee has 20 minutes to answer. The appellant then has 10 additional minutes to reply to the appellee. The public will have the ability, in the near future, to hear these oral arguments "live" on the South Dakota Unified Judicial System's web page at www.sdjudicial.com.

In other cases the justices do not hear oral arguments, but rather they consider only the lower court's trial record and the legal briefs filed by the attorneys in arriving at their decision.

Following oral arguments, the Court meets in private conference to discuss the cases heard that day as well as those on which no oral arguments were heard.

Each case is assigned to one of the justices to study the settled case record, research the case, and write an opinion which affirms, reverses or modifies the ruling of the circuit court. The proposed opinion is circulated among the members of the Court for review. If a justice concurs with the opinion, they will initial it. If they disagree, they write a dissenting opinion. When the proposed opinion has received approval by a simple majority of the five justices, it becomes the decision of the Supreme Court.



In limited cases, the court may issue an order, rather than an opinion, which affirms or reverses a lower court ruling.

In South Dakota, every appeal that is ready for oral argument before the Court has been placed on the Court's calendar within a matter of months. In many states, once an appeal is ready for oral argument, there may be as much as a two-year waiting period before it is placed on the court's calendar. In a number of states a person does not even have the right to appeal to the state supreme court. In South Dakota, with the exception of small claims actions, everyone has the right to appeal to the Supreme Court.

LOWER COURT APPEALS

A similar appellate procedure exists to appeal magistrate court decisions to circuit court. Except for small claims actions, an appeal from magistrate court to circuit court may be filed within 10 days of the magistrate court's final



judgment. Within 30 days after the filing of the trial transcript the appellant must file a brief. The appellee then has 30 days in which to file an answering brief. Within 10 days after receipt of the appellee's brief, the appellant may file a reply brief.

RELATED SUPREME COURT ACTIVITIES

JUDICIAL QUALIFICATIONS COMMISSION

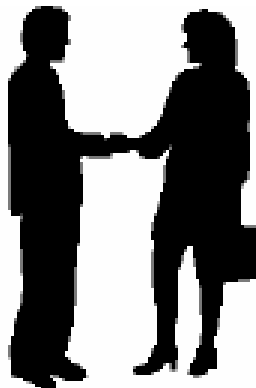
Under Article V of the State Constitution a Judicial Qualifications Commission is appointed to investigate complaints against judges believed to be acting improperly.

The non-partisan Commission hears and investigates complaints, recommending to the Supreme Court whether disciplinary actions should be taken. If the Commission finds a complaint is justified, it may recommend that the judge be censured, removed from office or retired.

The Judicial Qualifications Commission also reviews applications for vacancies on the Supreme Court and the circuit court bench.

They then nominate the most qualified applicants to the Governor, who in turn appoints a person to fill the vacancy.

The membership of the Commission consists of two judges, three attorneys and two lay persons appointed by the Governor.



CONDUCT OF ATTORNEYS

Because the work of the courts depends to a great extent upon the cooperation and assistance of lawyers, it is necessary to have rules governing the way lawyers deal with their clients, the courts and the public.

In South Dakota, the Supreme Court has final supervision of lawyers and has adopted a body of rules called the **South Dakota Rules of Professional Conduct**. These rules establish

standards for lawyers' conduct and provide for disciplinary proceedings if a lawyer violates the code. Also, the State Bar Association administers a client security fund. Clients who believe an attorney has mishandled the client's money may seek and obtain reimbursement under certain circumstances.



The Supreme Court appoints a five-member **Board of Bar Examiners** that develops and administers the state Bar Examination, under court guidelines, to determine whether persons may be attorneys in the state.

OTHER COURTS LOCATED IN SOUTH DAKOTA

Although not part of the South Dakota Unified Judicial System, other judicial systems operate within the state – the federal district court and the tribal court systems.

Three federal district judges reside in the state to hear cases involving federal jurisdiction, lawsuits involving persons from other states, or actions arising on Indian reservations. In federal court US Magistrates function under federal law in a manner similar to that of magistrate judges under state circuit courts.

Each Indian reservation in the state has a tribal court that hears violations of tribal ordinance and civil suits involving tribal members.



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Requests for additional copies or inquiries may be directed to:
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