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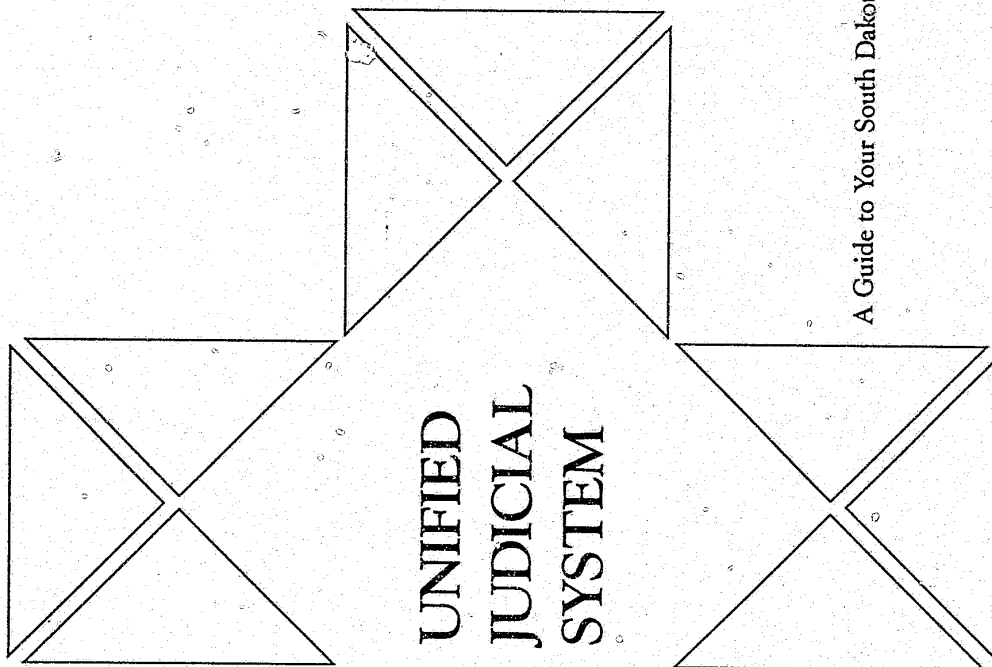
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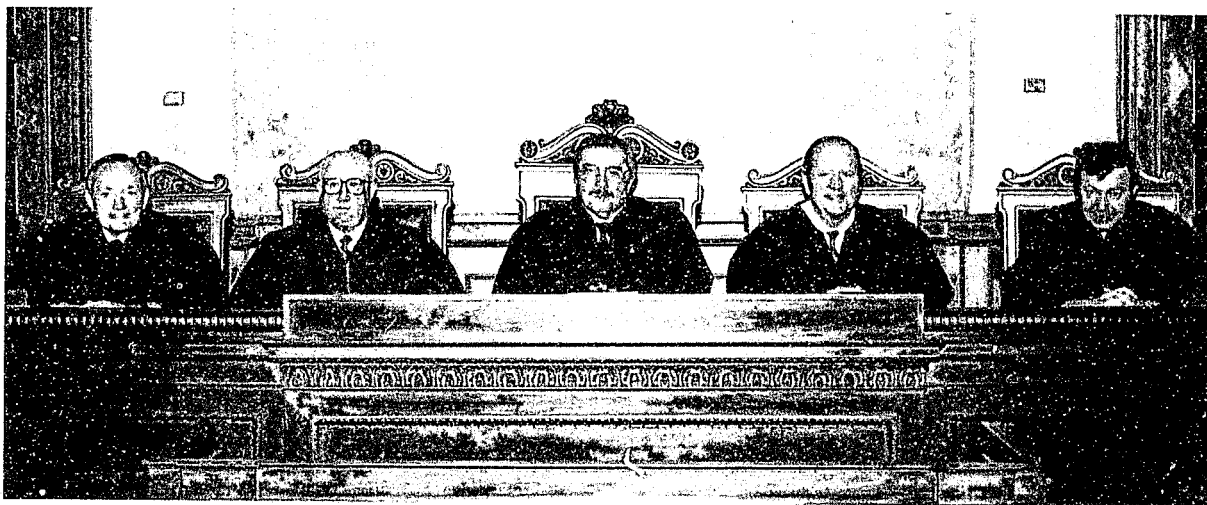
A Guide to Your South Dakota Unified Judicial System



'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 jurisdiction as established by the Legislature.'

Article V,  
section 1.

State Constitution



Justices of the Supreme Court, left to right: Hon. Richard W. Sabers, Sioux Falls, Second District; Hon. George W. Wuest, Aberdeen, Fifth District; Hon. Robert A. Miller, Chief Justice, Pierre, Third District; Hon. Frank E. Henderson, Hill City, First District; Hon. Robert A. Amundson, Vermillion, Fourth District.

#### TO THE CITIZENS OF SOUTH DAKOTA:

The South Dakota Constitution determined that the powers of government be divided among three independent branches: the executive led by the Governor; the legislative led by the President of the Senate and Speaker of the House; and the judiciary within the supervisory powers of the Supreme Court for which I am honored to serve as Chief Justice.

The South Dakota judiciary operates to safeguard the rights of every citizen and assure 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 the public that the courts serve.

It is with pride and pleasure that we present this outline and description of our courts and your judiciary.

For the Court,

ROBERT A. MILLER  
Chief Justice

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# The Unified Judicial System

## Unification

In January 1975, South Dakota's courts were reorganized into a unified judicial system by amendment to the State Constitution. There are now two basic levels, the South Dakota Supreme Court and the circuit courts. In addition, magistrate courts operate under the authority and supervision of the circuit courts.

Unification brought together within circuit courts a number of functions formerly delegated to courts of other governmental bodies including:

- Juvenile, probate and mental health matters formerly handled by the district county judges;
- Less serious criminal matters formerly handled by the district county judges and justices of the peace; and
- Municipal ordinance violations formerly handled by the municipal courts, justices of the peace and police magistrates.

Other changes include assignment of court services officers to circuit courts to provide adult and juvenile probation services. These services were formerly provided to adult offenders by agents of the State Board of Pardons and Paroles, and to juvenile offenders by county employees under supervision of district county judges. The position of county clerk of court was changed from an elected to an appointed office through reorganization.

The constitutional change gave the Supreme Court responsibility to administer the statewide unified court system. Now all court personnel are employees of the state whose salaries are paid by legislative appropriation.

## 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. Before a 1980 constitutional amendment was enacted, a justice was elected for an eight-year term from each of five Supreme Court election districts. Now, after appointment and after having served on the Court for three years, each justice must withstand reconfirmation at the next statewide general election, and each eight years thereafter.

The chief justice is elected by and from among the five justices to serve a four-year term. A chief justice can be re-elected to additional terms.

The South Dakota Supreme Court hears some actions which must start in the Supreme Court, but most often the Court serves as an **appellate court**, hearing appeals of circuit court decisions. Refer to the section on **APPEALS** for further information about this court function.

Through the chief justice, the Supreme Court administers the state's 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. The following staff members and offices assist the Court in conducting the business of the Unified Judicial System.

**Law Clerks**, usually first-year law school graduates, assist in researching the specific law which must be applied to any case heard by the Court. In addition to law clerks, the justices have legal secretaries who prepare their opinions, rulings and correspondence.

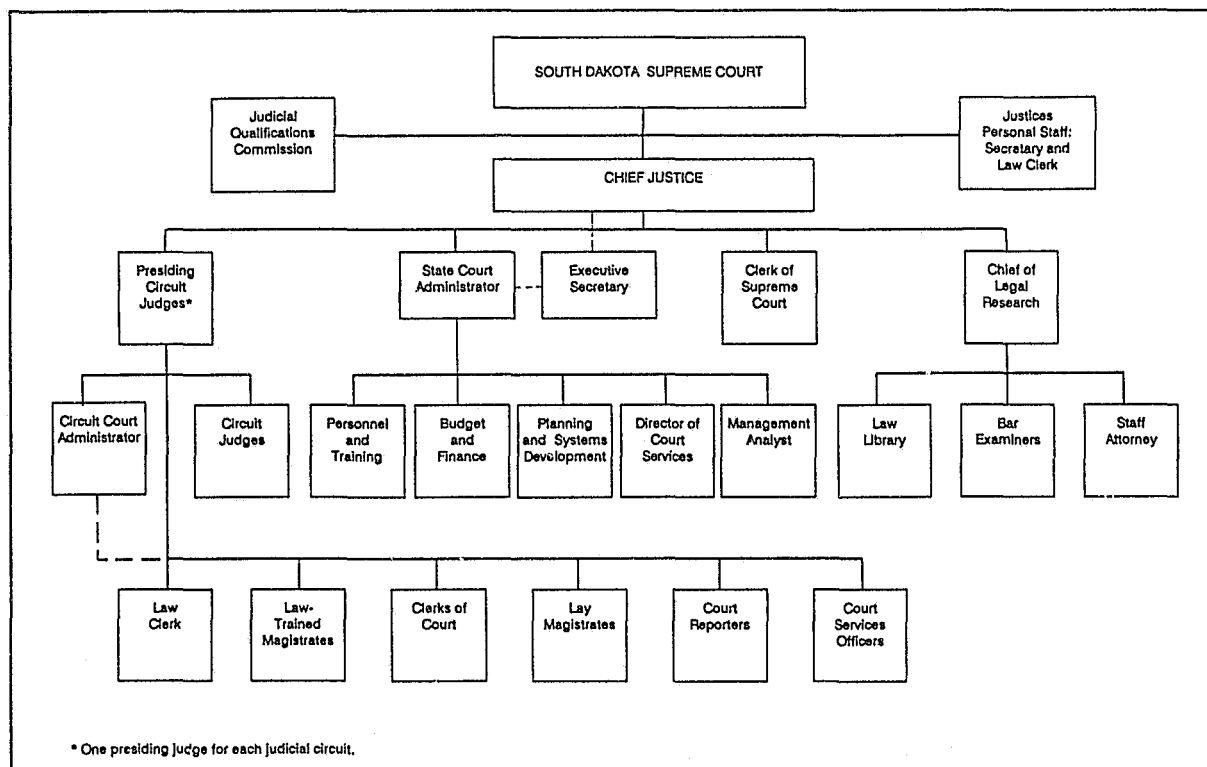
The **Clerk of the Supreme Court**, under appointment by the Court, is responsible for filing, indexing and preserving all Court records.

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 acts as and supervises the court's **Staff Attorneys**. These attorneys research substantive and procedural questions, draft rules and legislation and administer the settlement conference program.

The **State Court Administrator's Office** is the non-judicial office which assists the Court in administering the unified system through the following service offices:

- A budget and finance office supervises the budget of all state courts, and purchases and maintains control of court property.
- A personnel and training office administers position, salary classification and recruitment activities, and is responsible for training court personnel.
- A planning and systems development office operates the judiciary's computerized management information system. It provides caseload and offender analyses and related information necessary to support the other administrative functions of the Court.
- A court services director provides guidance and support to the court services staffs at the circuit level to assure uniformity within the state's probation program.

# Organization Chart for the Unified Judicial System



In the organization chart above, the interrelated offices of the Unified Judicial System are shown in their approximate relationship to each other. Most of these component offices are discussed in this brochure. The management role of the circuit court administrator or administrative secretary varies from circuit to circuit.

## Other Courts Located in South Dakota

Although not part of the State Unified Judicial System, there are two other judicial systems operating within the state. The first is the federal district court and the other is the tribal court.

Three federal district court judges reside in the state to hear cases involving federal jurisdiction, lawsuits involving persons from other states, or actions arising on Indian reservations. Under their supervision are U.S. Magistrates whose function under federal law is similar to that of law-trained magistrates under state circuit courts.

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

## Circuit Courts

The trial courts of the Unified Judicial System are the circuit courts. The number of circuits, their boundaries, and the number of judges in each circuit are established by Supreme Court Rule. There are currently 36 circuit judges serving in eight circuits. Judges are elected for eight-year terms by the voters of the circuit where they serve. The map on Page 4 identifies the judicial circuits.

One judge in each circuit is appointed by the Chief Justice of the Supreme Court to act as the **presiding circuit judge**. Presiding judges are responsible for administering their circuit's court operations. In some of the circuits the presiding judge appoints a circuit court administrator to assist with this task.

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 in reaching their verdict. The judge also instructs the jury on points of law pertaining to the crime.

Circuit court judges perform the duties of former district county judges involving juvenile and probate functions. They also may hear contested small claim actions, contested misdemeanor cases and preliminary hearings in criminal cases.

## Magistrates

Each circuit is staffed by both law-trained and lay magistrates who act as judges in criminal cases involving less serious crimes and in civil cases involving small amounts of money. Most magistrates in South Dakota are lay magistrates, which means they are not attorneys. Magistrate training is provided by the State Court Administrator's Office through the Office of

Personnel and Training. Lay magistrates perform functions similar to those formerly performed by justices of the peace and police magistrates. In most counties the Clerk of Court also serves as lay magistrate who is authorized to conduct the following functions:

- Performs marriages;
- Sets bond in criminal cases;
- Accepts guilty pleas and imposes fines in minor criminal cases and violations of municipal ordinances in accordance with a schedule fixed by the presiding circuit judges;
- Conducts preliminary hearings in criminal cases unless the accused demands that it be heard before a circuit judge or law-trained magistrate;
- Hears uncontested civil and small claims cases; and
- Issues arrest warrants and search warrants.

Judicial circuits also have full or part-time law-trained magistrates who are lawyers admitted to the State Bar of South Dakota. Their judicial powers are broader and in addition to the above, they may:

- 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 fines 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.

## Circuit Court Personnel

The **clerk of court** in each county maintains the official court files of all cases brought before the court. Clerks of court are also empowered to act as lay magistrates if so appointed by the presiding circuit judge, and in many counties they perform both functions.

**Court services officers** work with the circuit judges in supervising adults and juveniles who are placed on probation by the courts. In many areas the circuit judge uses a court services officer to assist in the investigation of child custody and child abuse cases.

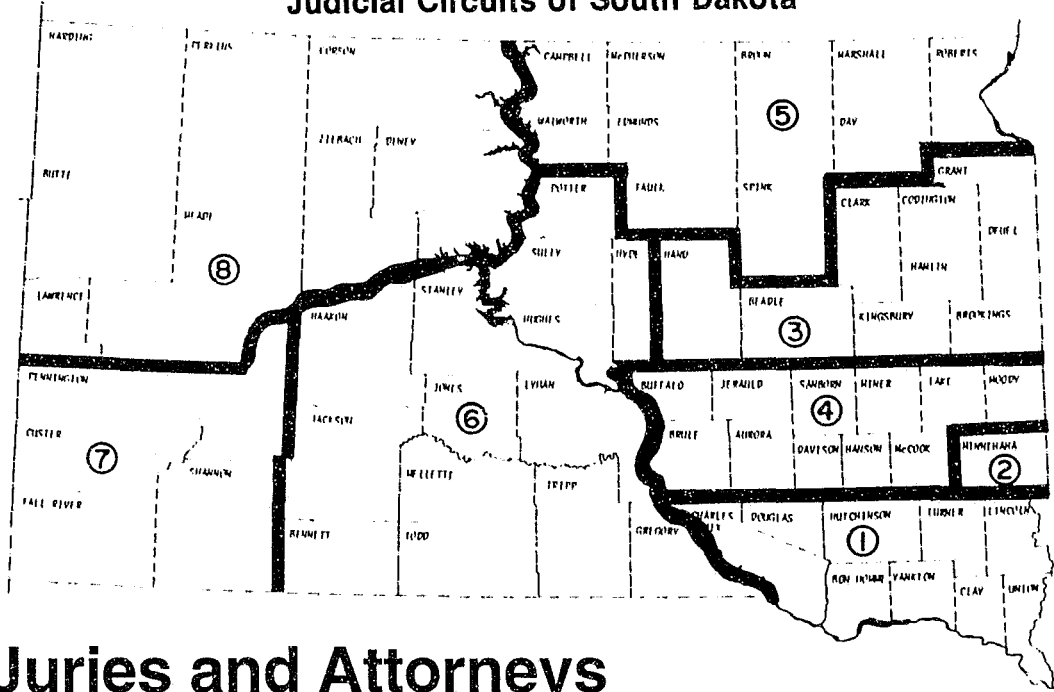
In each circuit a **chief court services officer** is appointed by the presiding circuit judge to supervise the other court services officers and to work in cooperation with the Director of Court Services.

Each circuit judge, and some law-trained magistrates, are assisted by a **court reporter** who takes verbatim notes on all that is said in court. They prepare transcripts on appeals, and when otherwise requested to do so by the judge or an attorney representing either side of a case.

Each circuit employs a 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 so requested by the judge.

## Judicial Circuits of South Dakota



## 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 for each term of court occurring during that year.

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

### Grand Jury

The **Grand Jury** is made up of six to eight citizens selected from the county master jury list. It has broad investigatory powers and is empowered to:

- 1) inquire into misdemeanors and felonies which 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 law and legal procedure.

Because grand jury proceedings are not open to the public, the only person permitted to attend its 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 for alleged crimes in public office and criminal events requiring a special investigation by a judicial body before charges are brought.

### Trial Jury

The Constitutions of the United States and South Dakota guarantee a defendant the right of trial by jury. 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 the voir dire, or examination of 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 which 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 en-

forcement of state laws through the elected state's attorneys, none of whom are members of the judiciary or the Unified Judicial System.

When requested, the Attorney General renders legal opinions to state's attorneys and various departments of government. 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.

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

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 retained counsel would do.

# Criminal Cases

## Petty Offenses

A **petty offense** is a violation of state law which 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 which have improper or defective equipment, or use of vehicles which do not have accessories or equipment 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 which 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. A Class 2 misdemeanor may result in a maximum sentence of thirty days in a county jail, a two hundred dollar fine, or both. A Class 1 misdemeanor may result in a maximum sentence of up to twelve months in the county jail, a one thousand dollar fine, or both.

At their first court appearance for a Class 2 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. If the accused pleads guilty, 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 will 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 be immediately 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. 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 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 defendant is sentenced by the judge. 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 cannot 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 that an error or errors were made during the circuit court trial, the conviction may be appealed to the state Supreme Court.



# 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.

Court services officers conduct presentencing studies and recommend treatment plans for juvenile and adult offenders, taking into account the best interests of both the offender and the community. They provide counseling and community referral services to those placed on probation and in domestic cases.

Alternative care services are purchased under contracts with foster homes and private residential child-care facilities. These services are for treatment of juveniles who are under supervision of the court, who must be temporarily removed from their parental homes but who do not require the services of state-operated correctional institutions.

Court services officers also screen juvenile cases before preparation of formal charges. This screening separates cases requiring formal prosecution from those which can be handled more effectively by other agencies in the community. Often it is 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.

# Civil Actions

When a person believes they have been injured or damaged by another person, they 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.

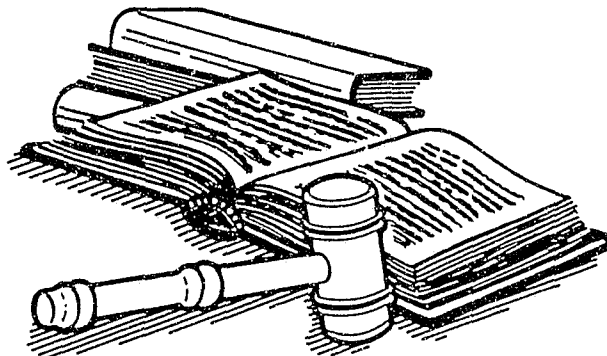
If the attorney believes the client has a case the attorney prepares a **complaint**, which is a written claim against the other party. The complaint is filed with the clerk of court in the county where the action is to be tried.

Based on this suit the client becomes the **plaintiff** 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. Civil cases are heard by a judge unless one of the parties to the suit demands a jury trial.

## Small Claims Court

The Supreme Court has established rules which provide a simple, informal method of deciding claims of \$4,000 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 or agreement between two parties.

Anyone wishing to start 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 judge or a law-trained magistrate. Each side is given an opportunity to present its case, and the judge may ask 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 which allows the action to become a formal civil suit.

The small claims procedure is available to everyone and is the fastest, least expensive, and least complicated method of getting a just result in disagreements over limited amounts of money.

## Probate and Guardianships

Probate and guardianship filings frequently come before circuit courts. Probate is the administration of estates of deceased persons. When a person dies, their property (referred to as an estate) must be distributed to their heirs. The function of the court is to protect the property rights of the decedent in passage of their 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 law violations committed by juveniles. Court services officers conduct intake screenings to assure that only those juveniles who require the court's attention are taken before the judge for a formal hearing.

Those who do not require a formal hearing are referred to community-based public or private social service agencies for proper treatment and handling. This may occur because of the nature of the juvenile, the offense, or the family circumstance. 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.

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 responsibility of the court to provide protective services to the child. Examples of such cases include non-support, dependency, neglect, and child abuse.

Additionally, circuit courts hear family relations cases involving divorce, legal separations, annulments, and child custody. Court services officers assist the judge in establishing and monitoring prescribed treatment because of the nature of these cases and the wide variety of treatment methods available.

# Appellate Procedure

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 which adversely affected the trial's outcome.

Under South Dakota law, civil appeals to the Supreme Court can be filed any time within 60 days after final judgment is handed down in circuit court. Law establishes the following time periods which 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 45 days to file his brief with the Clerk of the Supreme Court. This brief must identify the errors which 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 appellees 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 a decision was handed down by the lower court.

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 his case and the appellee 20 minutes to answer. The appellant then has 10 additional minutes to reply to the appellee.

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 gener-

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*"The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispense promptly of the business of the court. Courts can be efficient and business-like while being patient and deliberate."*

*South Dakota Code of Judicial Conduct*

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ally agree but have some suggestions, they will write a memorandum to the Court. 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 which 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.

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.

## 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 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.

## Original Proceedings

In addition to hearing appeals, the Supreme Court has original jurisdiction over many proceedings, which means the matter is filed directly with the

# Related Supreme Court Activities

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## Presiding Judges

The eight presiding circuit court judges meet regularly with the Chief Justice and the State Court Administrator to discuss policy regarding equal application of services throughout the Unified Judicial System. Thus, they are able to design and implement uniform programs and procedures affecting the citizens in each of the communities served by 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.

## Judicial Qualifications Commission

Article V of the State Constitution provides for appointment of a Judicial Qualifications Commission to investigate complaints against judges believed to be acting improperly.

The Commission serves as a non-partisan group to hear and investigate complaints and to recommend to the Supreme Court whether any disciplinary action should be taken. If the Commission finds a complaint is justified, it may recommend that the judge be censured, removed from office or retired.

Under the 1980 constitutional amendment, the Judicial Qualifications Commission reviews applications for vacancies on the Supreme Court and the circuit court bench and nominates 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.

## Conduct of Layers

Because the work of the courts depends to a great extent on the cooperation and assistance of the 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. A body of rules called the **South Dakota Rules of Professional Conduct** has been adopted by the Supreme Court. This code sets standards for lawyers' conduct and provides for disciplinary proceedings if a lawyer violates this code.

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 become attorneys in the state.

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.

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*"If we want to improve the administration of justice in our country, we must experiment and search constantly for better ways, always remembering that our objective is fairness and justice, not efficiency for its own sake."*

*Chief Justice Warren E. Burger*

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*"The law must serve everyone, those it protects as well as those it punishes."*

*Declaration of the Rights of Man, 1789*

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*"All the great administrative improvements in recent years came through the efforts of laymen. It has to be laymen. They're the ones who are hurt by the malfunctions in the administration of justice system."*

*Chamber of Commerce of the United States*

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The Supreme Court would like to extend its appreciation to the original members of the task force that prepared the 1979 issue of this pamphlet: Ms. Ann Elkjer, Mr. Dexter Gunderson, Hon. Marvis T. Hogen, Hon. Robert A. Miller, Mr. William K. Sahr, and Mr. Morton Wilkins.

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