

# State Bar of South Dakota



Newsletter  
February 2022

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# State Bar of South Dakota

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## P R E S I D E N T ' S   C O R N E R

*William C. Garry*

The New Year started off on a sad note for my family as my 91 year old mom passed away on January 3rd. She was a wonderful wife, mother, grandmother and great grandmother. For the last few years, however, she was afflicted with dementia. Watching this horrible disease gradually destroy mom's cognitive function was painful for all of us, especially my dad who was mom's soulmate for more than 70 years. In the end mom's passing was a blessing but, as many of you know, losing a parent at any age is difficult to process.

We were also saddened by the death of former Supreme Court Justice Dick Sabers on January 12th. Dick was appointed to the Supreme Court by Governor Janklow in 1986 and served on the Court for more than twenty years. He was the first Justice in the state to go directly from private practice to the Supreme Court without first serving as a Circuit Court Judge. Dick's experience as a trial lawyer served him well as an appellate judge. Our sincere condolences go out to Dick's family, especially his daughter, Circuit Judge Susan Sabers and his son, Rapid City lawyer Mike Sabers.

I am pleased to announce that the South Dakota Chapter of the American Board of Trial Advocates (ABOTA) will once again be hosting the Deposition Academy this summer. The Academy will be held at the USD Knutson School of Law on July 13-15. The faculty will consist of experienced trial lawyers from across the state. This is a great program for young lawyers to learn and/or sharpen their trial lawyer skills. Watch for more details in coming Newsletters.

By the time you read this message we will have survived another January in South Dakota. Although I have lived in the State my entire life, it seems each year becomes an unfair endurance test. On a positive note, the first day of Spring is less than two months away!

I will continue to introduce you to the members of the Bar Commission. This month features Hon. Francy E. Foral (At Large), Kirsten Aasen (7th Circuit), and Jacob W. Tiede (At Large).

### **Hon. Francy E. Foral**



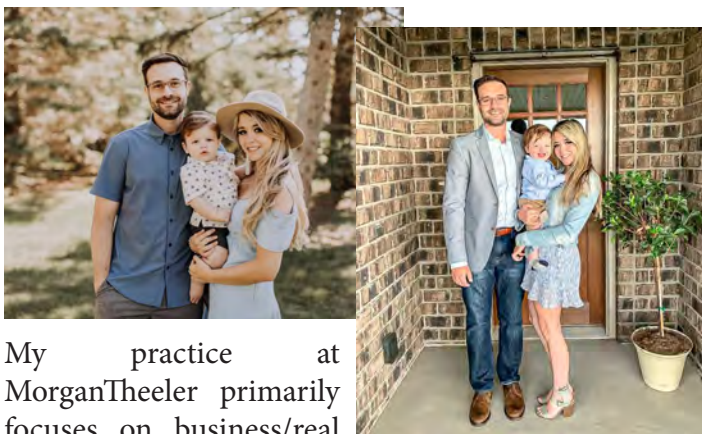
Judge Francy Foral is a South Dakota native. She grew up in the Black Hills and following high school, attended college at the University of Wyoming. After college, she relocated to the East Coast to serve in the AmeriCorps National Civilian Community Corps for one year. She then settled in Boston, MA, became a die-hard Red Sox fan and earned her J.D. from Suffolk University Law School. After living in the city for almost a decade, she returned to South Dakota to clerk in her hometown for the Fourth Judicial Circuit. She practiced law as an associate attorney at Frederickson Law Office, P.C., in Deadwood, focusing primarily in the area of family law. In 2013, she was hired as the first Strategic Planning Coordinator for the South Dakota Bar Association. Then in 2015, she became a magistrate judge for the Fourth Judicial Circuit. In addition to her magistrate



duties, she presides over the Northern Hills Drug Court and 4th Circuit DUI Court programs. She's actively involved in the local Teen Court and was recently elected to serve as an at-large bar commissioner for a three-year term. She serves on the State Bar's Strategic Plan Committee and Diversity & Inclusion Committee and she's a member of the UJS Problem-Solving Court Advisory Council. She's been actively involved in the State Bar throughout her legal career and has served on the Young Lawyers Section Board, several committees and bar commission presently and in the past. Outside of work, Judge Foral spends her time focused on her family. She and her husband stay busy raising 4 children and love living in the beautiful Black Hills.

### Jacob W. Tiede

I was born and raised on a farm near Parkston, South Dakota. In 2013, I received my B.S. in Political Science from South Dakota State University, and my JD from the University of St. Thomas (MN) in 2016. While attending law school, I met my wife, Lorena Tamayo-Tiede and upon graduation the two of us accepted positions at MorganTheeler, LLP in Mitchell, South Dakota. In July of 2020, my wife and I had our first child, Noah James Tiede and in January 2021 I became partner at MorganTheeler, LLP.



My practice at MorganTheeler primarily focuses on business/real estate transactions, estate planning, and commercial/business litigation. In my free time, I enjoy working on our family farm and traveling with my wife.

I was encouraged to run for a Bar Commission seat in 2021 by my colleague, Steve Huff, and I'm certainly glad I agreed. Serving as a Bar Commissioner has been an incredibly rewarding experience, due in part to the outstanding group of individuals that serve on the Commission. I look forward to serving the members of the South Dakota State Bar in the years to come.

### Kirsten Aasen

My name is Kirsten Aasen, and I represent the Seventh Circuit on our Board of Bar Commissioners – a position I've held since 2019. I was born in North Dakota and mostly raised in Montana. After high school, I spent the next 20 years on the East Coast, moving to the Black Hills area in 2007. The move here was supposed to be retirement from a rewarding, yet incredibly stressful and all-encompassing career as an antitrust lawyer. But after I had crossed off most of the items on my retirement bucket list (some important, some frivolous), I realized that I was neither creative enough to continue entertaining myself nor particularly effective at eleemosynary pursuits. In short, I was bored -- and, one might add, still a lawyer to the core since I had to use an excessively compounded sentence incorporating a 6-syllable word to express that simple thought! With the help of some amazingly talented and generous Rapid City lawyers, I opened up a family law shop in 2014. I am now on the State Board of Pardons and Paroles – a role which I love.

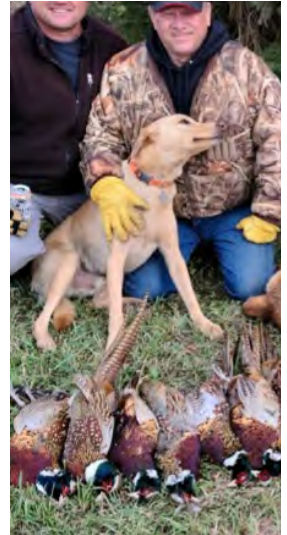
I was primarily motivated – at first - to run for the Bar Commissioner seat in order to be of some use in ensuring that the Bar is an effective resource for South Dakota lawyers struggling with mental health and substance abuse issues. Unfortunately, I am among the many, many lawyers who have or will develop a problem with alcohol during the course of practicing. Fortunately though, on April 24, 1998, I started my recovery from that illness with the miraculous help of other lawyers and a twelve step community. Luckily for me, I got that help relatively early on in my career – many lawyers of that era were not so lucky. Given my own personal experience with recovery, I thus jumped at the chance to serve when I heard the State Bar was in the final stages of developing a professional Lawyers Assistance Program for South Dakota. I definitely wanted to have a front row seat to vote “Aye” for such a program! For that exceedingly small effort, I've received so much more in return in my time as a Bar Commissioner. I've gotten to know our incredibly hard working and talented Bar Staff, connected with committed, thoughtful, and passionate lawyers throughout the state, and got to witness firsthand the dedication of so many lawyers who keep our community growing, healthy and vibrant.

So, they are asking me to include some photos for this blurb. I do want you to know that I scoured my photo gallery for a beautifully framed, flatteringly lit picture

where I am properly coiffed, my wrinkles blurred, and the extra pounds that my increasing age has brought obscured. Could not find one. But I did find one taken in the middle of a brutally hot day half-way through a 500 mile hike through northern Spain on the Camino de Santiago – perhaps a bit disheveled and sweaty but still smiling, and more importantly, still going!



And finally, I can't end without showing off my beloved babies, Duck and Goose. I'll let you guess who is named what – it won't be hard!



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UPDATES ARE DUE BY  
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**tick  
tock**





## State Bar of South Dakota YOUNG LAWYER SECTION



*Ole Olesen*  
YLS President

### *I'VE GOT THE WINTER TIME BLUES!*

In case you are wondering, the Winter Time Blues are a real thing; especially for those of us living in the northern states. Your medical professional might call it Seasonal Affective Disorder (SAD), but it is most definitely a real thing. So, if you find yourself being more depressed and possibly sleeping worse (but possibly more); SAD may be the culprit.

So, what causes those Winter Blues? Light. Or a lack of light. We are not getting as much sunlight exposure and that can cause lower levels of serotonin and the extra darkness can cause increased levels of melatonin.



In my life before law, I dealt with some of the causes of SAD on a daily basis. After high school, I left South Dakota for a period and went to work in the commercial shipping industry.

I primarily worked on oil and natural gas tankers, but I did a few trips on large container ships as well. I worked in the engine room on the ships. Because of where I worked on the ship, I could actually go very long periods of time without actually going outside. In addition, I spent several years shuttling oil from Alaska down to

the west coast. If you have never seen the sun rise at 11:00 AM and set at 2:00 PM, you are really missing out.

In order to combat SAD, there were a few things that we did. I tried to make it a point to spend ten to fifteen minutes of my lunch outside. This exposure to natural sunlight helped tremendously. I also kept a very strict sleep schedule, whether it was winter or summer. Getting my body into a rhythm of sleep was not difficult, but summers in Alaska made it difficult to maintain because the sunlight never really goes away. Lastly, I drank a lot of water and limited other drinks (caffeine and alcohol).

So, if you are struggling with SAD up here, do yourself a favor and get out there in the sunlight and walk a mile, eat healthy and stay hydrated, and make sure that you are sticking to your sleep schedule. Hopefully those things will be enough to pull you out of your funk. Lastly, there are services available to you if you can't shake the winter time blues! Call Lawyers Concerned for Lawyers to get the confidential help that you need.

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# *Fellows of the South Dakota Bar Foundation*

Many South Dakota lawyers have risen to the challenge of making the SD Bar Foundation a favorite charity. Such generosity deserves public acknowledgement. Therefore, the Bar Foundation Board of Directors has created a "Fellows" program to not only make such acknowledgement, but also to provide an opportunity for more of our members to participate and determine their personal level of professional philanthropy. Participation can be on an annual basis or by pledge with payments over a period of time. All contributions made to the "Fellows" program will be deposited in the Foundation's endowment account managed by the SD Community Foundation – famous for low management fees and excellent investment returns. Donations to the endowment are tax deductible and a perpetual gift to our profession and the educational endeavors and charities the Foundation supports.

## *Sustaining Life Fellow - \$50,000 plus*

Fred & Luella Cozad

## *Life Fellow - \$25,000 plus*

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Robert E. Hayes

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William Spiry  
Hon. Jack R. Von Wald

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Richard A. Cutler  
William F. Day, Jr.  
P. Daniel Donohue

Dana J. Frohling  
Richard L. Kolker  
Kimberley A. Mortenson

## *Silver Fellows - \$1,000 (per year)*

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Timothy J. Rensch

## *Presidential Fellows - \$10,000*

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Richard D. Casey  
Hon. Michael Day  
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Thomas H. Frieberg  
William C. Garry  
David A. Gerdes  
Hon. David R. Gienapp  
Patrick G. Goetzinger  
G. Verne Goodsell  
Robert E. Hayes  
Terry L. Hofer  
Carleton R. "Tex" Hoy  
Steven K. Huff  
Hon. Charles B. Kornmann  
Lisa Hansen Marso  
Bob Morris  
Thomas J. Nicholson  
Gary J. Pashby  
Stephanie E. Pochop  
Reed A. Rasmussen  
Pamela R. Reiter  
Robert C. Riter, Jr.  
Eric C. Schulte  
Jeffrey T. Sveen  
Charles M. Thompson  
Richard L. Travis  
Thomas J. Welk  
Terry G. Westergaard

## *Fellows - \$500 (per year)*

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Hon. John L. Brown	Hon. Bobbi J. Rank
Mary Jane Cleary	Robert C. Riter, Jr.
Andrew L. Fergel	Thomas Eugene Simmons
Neil Fulton	Jason R.F. Sutton
Tom E. Geu	Sarah L. Thorne
Craig A. Kennedy	Barry R. Vickrey

*Raising the Bar: Our Profession. Our Responsibility.*



## DEAN'S LIST : NEWS FROM THE LAW SCHOOL



For many of us, our law school faculty are central to our law school experience and memories. Even if the iconic and terrifying Professor Kingsfield of The Paper Chase is a caricature that has been debunked, most of us have a very clear picture of our law school faculty and their role in our development as lawyers.

The Law School has been fortunate to have tremendous faculty over the years. As I have mentioned, however, we are experiencing a generational transition of faculty. If you did not graduate in the last five years, there is a good chance that almost none of the faculty you had are still here. Succeeding those years of experience and service, more than 150 years of it, is no small task. It is critical to our future. I am happy to say that the work is going well. We have a talented and engaging next generation of faculty beginning their careers. They are building their own culture of student mentorship and teaching. It is wonderful to see.

I have talked about this new generation of faculty often. This month, I wanted to let you meet three of them in their own words. Two more new faculty members will join us this fall. I'll be excited to introduce them then, but for now I'm pleased to let you hear from Tyler Moore, Greg Brazeal, and Tamara Nash.

### TYLER MOORE

I joined USD as an assistant professor in August 2021. I teach constitutional law and agricultural law among other subjects. Working together with many bar members to develop the new ag law class has been rewarding. Before coming to South Dakota, I graduated

from the University of Nebraska, Georgetown Law, and was a PhD candidate in the political theory program at the University of Notre Dame. I clerked for Judge Jonathan Kobes on the Eighth Circuit and Judge John Gerrard of the U.S. District Court for Nebraska. I also spent two years as a litigation associate with Faegre Baker Daniels LLP in Des Moines.

My research is focused on theories of legal interpretation and the Anti-Federalists' influence on the shape of the original federal judiciary. My wife Joy and I both grew up in rural Nebraska. We have two active children. I am excited to be at USD, to get to know Vermillion, and to meet many of you.

### GREG BRAZEAL

Hello! It's been a pleasure meeting many members of the South Dakota bar since arriving at USD in the fall of 2020, and I look forward to meeting more of you and talking about criminal justice in South Dakota. Other than teaching Criminal Law, Criminal Procedure, and a course on contemporary debates in criminal justice, I also teach Cyber Law. My research is currently focused on rural mass incarceration, but I write occasionally about law, literature, and the history of ideas—including a recent book review, "The Politics of Crime Stories," written for The New Rambler. I'm originally from Kansas, worked as a public defender in Seattle, and currently serve as a Judge Advocate in the Army Reserve. My family and I have had a great time over the last two years enjoying the natural beauty of the state, and we look forward to more in the future.



## TAMARA NASH

Many of you know me, but most of you do not know me in my new role as Director of Experiential Learning. While professional transitions are always difficult, the decision to come home was an easy one.

When I attended USD Law, I gained friends and mentors who helped light and guide my professional path. I graduated equipped and empowered to take risks, make mistakes, and serve the community and profession. Coming full circle, I now have the privilege to come home and pay it forward.

One of the courses I am thrilled to be teaching is First Year Legal Experience, which our 1L students are taking for the first time this semester. We are focusing on connecting foundational legal concepts to the practical application of the law, specifically focusing on criminal law. We will think, work, and write like lawyers as we tackle discussions, drafting exercises, and student simulations through the semester. We will also welcome several South Dakotan lawyers and judges as guest speakers.

My goal is to cultivate an environment of authenticity, develop students' lawyer toolbelts, and emphasize their role in the future of the profession. I am so excited to see how the semester unfolds!

I also want to thank each of you for your support. Your time as an extern supervisor, guest speaker, or mentor is invaluable. You are building the future of the profession, one student at a time.



*End the Stigma*  
Reach out, seek help, and know that  
*you are NOT alone!*  
Too often, lawyers, judges, and law students find themselves wrestling privately with addiction or mental health issues. LCL volunteers are here to help and all communication is confidential and privileged.

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The USD Knudson School of Law will be hosting Spring 2022 On Campus Interviews (OCI) on February 3-4 and March 3-4.

Employers are invited to participate in Spring OCI on the date of your choice to interview 1L and 2L students for internship opportunities, and 3L students for post-graduate positions.

Interviews may be conducted either in-person at the law school or virtually.



**SPRING  
2022  
ON CAMPUS  
INTERVIEWS  
(OCI)**

To register, please email [lawcareerservices@usd.edu](mailto:lawcareerservices@usd.edu) with your preferred interview date and a job description for the position(s) you are seeking to fill.



# JUSTICE SQUAD

Thank you to the following attorneys for accepting a pro bono or reduced rate case from Access to Justice, Inc., during the months of December and January! You are now a member of the the A2J Justice Squad - an elite group of South Dakota lawyers who accept the responsibility to defend justice, uphold their oath and provide legal representation to those who need it.

Doug Dailey  
Garland Goff  
Edward Hruska  
Cole Morgan  
Bob Morris  
Shelly Munson  
Michael O'Leary  
Erika Olson  
Hollie Smith  
Robert Pasqualucci  
Kylie Riggins  
Madison Young

And much thanks to:  
Steve Huff  
Denise Langley  
Brandy Rhead  
James Taylor  
Linda Lea Viken



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and January!

PLEASE SEND A MESSAGE TO DENISE LANGLEY AT:  
ACCESS.TO.JUSTICE@SDBAR.NET





# A2J

## HERO



*a person who is  
admired or idealized  
for courage,  
outstanding  
achievements, or  
noble qualities*



# ANNOUNCEMENTS

Woods, Fuller, Shultz & Smith P.C.  
is pleased to announce that

*Gary Thimsen*  
has retired from the firm  
effective December 31, 2021, but will  
maintain his license to practice.

*Congratulations Gary  
on your retirement!*

Telephone: (605) 366-5873

[GPThims@gmail.com](mailto:GPThims@gmail.com)

Klass Law Firm  
is pleased to announce that

*Chris C. White*  
has been made partner  
effective January 1, 2022.

Klass Law Firm, LLP  
4280 Sergeant Rd. Ste 290  
Sioux City, IA 51106

Telephone: (712) 252-1866

[white@klasslaw.com](mailto:white@klasslaw.com)

Bettmann Hogue Law Firm, Prof LLC  
is pleased to announce their name has changed to

*Hogue Law Firm, Prof LLC*

Hogue Law Firm, Prof LLC  
dba Monument Law  
1506 Mt. View Rd., Ste. 101  
Rapid City, SD 57702

Telephone: (605) 348-8662  
Facsimile: (605) 348-9086

[tina.hogue@monumentlaw.com](mailto:tina.hogue@monumentlaw.com)  
[www.monumentlaw.com](http://www.monumentlaw.com)

MorganTheeler LLP  
is pleased to announce that

*Aspen K. Bechen*  
has become an associate with the firm  
effective August 9, 2021.

MorganTheeler LLP  
1718 N. Sanborn Blvd.  
P.O. Box 1025  
Mitchell, SD, 57301

Telephone: (605) 996-5588  
Facsimile: (605) 996-6129

[abechen@morgantheeler.com](mailto:abechen@morgantheeler.com)

Cutler Law Firm, LLP  
is pleased to announce that

*Jonathan A. Heber*  
*and*

*Erik K. Nyberg*  
have become partners in the firm  
effective January 1, 2022.

Cutler Law Firm, LLP  
140 N. Phillips Avenue, 4th Floor  
Sioux Falls, SD 57104

Telephone: (605) 335-4950  
Facsimile: (605) 335-4961

[jonathanh@cutlerlawfirm.com](mailto:jonathanh@cutlerlawfirm.com)  
[erikn@cutlerlawfirm.com](mailto:erikn@cutlerlawfirm.com)

Beardsley Jensen & Lee  
is pleased to announce that

*Elliot J. Bloom*  
has become partner in the firm  
effective January 1, 2022.

Beardsley Jensen & Lee  
4200 Beach Drive, Suite #3  
PO Box 9579  
Rapid City, SD 57702

Telephone: (605) 721-2800  
Facsimile: (605) 721-2801

[ebloom@blackhillslaw.com](mailto:ebloom@blackhillslaw.com)

Bangs, McCullen, Butler,  
Foye & Simmons, L.L.P.  
is pleased to announce that

*Victoria M. Duehr*  
is now offering mediation services.

Victoria is a UJS approved mediator for  
the First, Second, Third, Fifth, and Sixth Judicial  
Circuits.

For scheduling, please contact Victoria  
or Kim at (605) 339-6800

6340 S. Western Avenue  
Suite 160  
Sioux Falls, SD 57108

Facsimile: (605) 335-4961

[vduehr@bangsmccullen.com](mailto:vduehr@bangsmccullen.com)  
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# Law for Lunch

*February 17, 2022 11:30am CST*

To register for this webinar,  
click the registration link below.

**REGISTER  
HERE**

The speaker will discuss who has standing to appeal certain zoning issues, and recent cases surrounding this. He will also discuss other common land use issues and provide a checklist for responding to zoning appeals.

JACK HIEB PRESENTS:  
**LAND USE  
SUE SUIT  
SOUTH  
DAKOTA**





UNIVERSITY OF  
**SOUTH DAKOTA**  
KNUDSON SCHOOL OF LAW

# **CLASS OF 2022 CELEBRATION**

**FEBRUARY 19TH**

**SOCIAL 2:00 PM - 4:00 PM**

**DAKOTA DOME CONCOURSE (WEST SIDE)**

**MEN'S BASKETBALL VS WESTERN ILLINOIS**

**4:00 PM**

All are welcome! Join the Knudson School of Law to celebrate the Class of 2022. Food and beverages will be provided.

Tickets for the game can be purchased at the ticket office at the Sanford Coyote Sports Center or by calling 605-677-5959.

There is an exclusive buy one, get one ticket offer for this event. Enter promo code **2022** at [GoYotes.com/Promo](https://GoYotes.com/Promo) or by phone or in-person at the ticket office.

If you are a person with a disability and need a special accommodation to fully participate, please contact Disability Services 48 hours prior to the event at 605-677-6389.

JEFFREY T. SVEEN  
JOSEPH P. BARNETT  
REED RASMUSSEN  
JULIE DVORAK♦♦\*  
RODRICK L. TOBIN\*  
JEREMY D. LUND  
JASON A. ERICKSON  
HARVEY C. JEWETT, *of Counsel*



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P.O. BOX 490  
ABERDEEN, SOUTH DAKOTA 57402-0490

STAN SIEGEL (1928-1996)  
JOSEPH H. BARNETT (1931-1985)  
RAYMOND M. SCHUTZ (1929-2012)  
TERENCE A. O'KEEFE (1938-1999)

TELEPHONE: (605) 225-5420  
FACSIMILE: (605) 226-1911  
WEB SITE: [www.sbslaw.net](http://www.sbslaw.net)

♦Also licensed in Minnesota  
•Also licensed in Montana  
\*Also licensed in North Dakota

January 28, 2022

Dear Fellow State Bar Members:

I am excited to announce my candidacy for State Bar President-Elect in 2023. Since graduating from USD School of Law in 2000, I have been at Siegel, Barnett & Schutz in Aberdeen. I am just finishing my five-year term on the Disciplinary Board. In the past, I have served as a Bar Commissioner, on the Strategic Planning Committee, and as a member and chairperson of the CLE Committee.

We have so many opportunities – and challenges – and I look forward to hearing your ideas as we work together to meet the objectives of our organization. Of particular importance to me is the wellness of our members. We have an opportunity to support the Lawyers Assistance Committee and further the goal of eliminating the stigma of asking for help.

Serving as your Bar President in 2024-25, following in the footsteps of President Bill Garry, president-elect Lisa Marso, and Heather Lammers Bogard (who will presumably be elected as President-Elect this summer), would be an honor. I look forward to the challenge and hope that I can count on your support.

I hope to see you at the annual convention this June in Rapid City.

Sincerely,

/s/ Julie Dvorak

Julie Dvorak  
of SIEGEL, BARNETT & SCHUTZ, L.L.P.  
[jdvorak@sbslaw.net](mailto:jdvorak@sbslaw.net)



P.S. *You heard it here first – Past Young Lawyer President (2009-2010) Sarah Sharp Theophilus is planning on running for State Bar President-Elect in 2024, the year after me. It would be exciting to collaborate with Sarah in Bar Leadership roles. She could be the first Federal Public Sector Lawyer to ever be President of the State Bar. I am sure you will hear from Sarah soon.*

**JOIN US.  
March 4 & 5, 2022**

**Dear South Dakota Bar Member:**

The University of South Dakota Knudson School of Law Veterans Legal Education Group is holding drop-in legal clinics for veterans on the east side of the state. On March 4, 2022, VLEG will be in Sioux Falls, SD at the Military Heritage Alliance building (1600 West Russell Street, Sioux Falls, SD 57104). The time of the clinic will be from 9:00AM to 4:00PM. We hope to reach nearly 50 veterans on this day.

On March 5, 2022, VLEG will be in Brookings, SD at the VFW (520 Main Ave, Brookings, SD 57006). The time of the clinic will be from 9:00AM to 4:00PM. We hope to reach nearly 30 veterans on this day.

Law students will be in attendance and will assist in completing intakes with the veterans prior to the veterans sitting down with an attorney.

**WE ARE CURRENTLY IN NEED OF VOLUNTEER  
ATTORNEYS FOR BOTH LEGAL CLINICS.**

If you would like to volunteer or have questions about the clinics, please reach out to Tye Dybedahl at [Tye.Dybedahl@coyotes.usd.edu](mailto:Tye.Dybedahl@coyotes.usd.edu).

We continue to appreciate all of the support from the State Bar of South Dakota Veterans Committee, Young Lawyers Section, and our volunteer attorneys. This project would not be possible without you.

**Sincerely,  
Tye Dybedahl  
President, Veterans Legal Education Group**

**volunteer**

USD KNUDSON SCHOOL OF LAW VETERANS LEGAL EDUCATION GROUP





## **Young Lawyers Section 2022 Bootcamp Agenda**

**Friday, April 1, 2022**

Sioux Falls Location: Lumber Exchange Building, 101 S. Reid Street

Rapid City Location: Pennington County EOC Room, 130 Kansas City Street, #130A, Rapid City, SD 57701

### **Agenda**

- 9:00-9:15: Registration
- 9:15-9:20: Welcome
- 9:20-10:05: Administrative Hearings 101: What to Expect and How to Prepare
- 10:05-10:50: Criminal Law 101: Pre-trial Motions and Considerations
- 10:50-11:00: #Fit2PracticeSD
- 11:00-11:10: Break
- 11:10-11:55: Crucial Conversations 101: How to Speak to Clients, Opposing Counsel, and Co-Workers when the Stakes are High

### **Lunch**

- 12:00-12:55: Judges Panel
- 12:45-12:55: Registration
- 12:55-1:00: Welcome
- 1:00-1:45: Estate Planning 101
- 1:45-2:45: Employment Law 101: An Overview of the Americans with Disabilities Act and Leave Laws
- 2:45-3:25: #Fit2PracticeSD
- 2:25-2:40: Break
- 2:40-3:10: Pro Se Litigants: Considerations when Dealing with a Pro Se Litigant
- 3:10-4:20: Professional Responsibility Attorney Panel: Pitfalls for New Attorneys and Advice

### **Circuit Mixer to Follow CLE – All Attorneys are Invited!**

Sioux Falls: R Wine Bar, 322 E 8<sup>th</sup> Street

Rapid City: TBD

**Sioux Falls RSVP** to Brooke Schmidt, [bschmidt@dehs.com](mailto:bschmidt@dehs.com)

**Rapid City RSVP** to Arman Zeljkovic, [Arman.Zeljkovic@pennco.org](mailto:Arman.Zeljkovic@pennco.org)



## COURT IMPROVED PROGRAM TRAINING

The Center for the Prevention of Child Maltreatment and the South Dakota Unified Judicial System are hosting monthly Court Improvement Program (CIP) trainings for attorneys, judges, and other multidisciplinary professionals working with families involved in abuse and neglect cases.

The goal of these trainings is to provide relevant and up-to-date information on the South Dakota child welfare system, while offering unique approaches and standards for best practices when working with children throughout the court process.

Future CIP training sessions:

----

Use the linked session titles below to register.

WED FEB 23 – FAMILY TIME AND SIBLING/RELATIVE PLACEMENT PREFERENCES

WED MAR 30 – CONVERSATION WITH A FOSTER FAMILY

WED APR 27 – BEST PRACTICES ON ABUSE/NEGLECT CASES IN CONJUNCTION WITH STATE BAR

Court Improvement Program sessions sponsored by UJS and CPCM

# URGENT MEMO

THE

## Certificate of *Compliance*

WAS DUE ON JANUARY 31ST.

IF YOU HAVE NOT SENT THIS IN,  
PLEASE DO SO NOW! THIS CAN  
BE EMAILED TO:

KYLEE.HOFFMAN@SDBAR.NET





# CERTIFICATE OF COMPLIANCE

## INSTRUCTIONS

The certificate of compliance for the year 2021 must be submitted to the State Bar of South Dakota by **January 31, 2022**.

IMPORTANT INFORMATION concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All attorneys who were **ACTIVE members of the State Bar of South Dakota in 2021 must file the compliance form** with the State Bar no later than January 31, 2022. **This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc.** This reporting requirement does NOT include those who were inactive lawyers in 2021, nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients.

Andrew L. Fergel  
Secretary-Treasurer

## TRUST ACCOUNT COMPLIANCE FORM INSTRUCTIONS

Immediately following these instructions, a model form has been reproduced. The form may be modified to accommodate multiple signatures where a number of or all partners in a law firm utilize a single trust account. Please type the name of the sole practitioner or, if using a common firm trust account, the names of all lawyers utilizing the trust account. For the balance of the form, fill in the blanks, check the spaces, or leave blank or mark n/a where appropriate.

- 1 - check (a), (b), or (c) if applicable
- 2 - self explanatory (usually appropriate for inactive or retired members)
- 3 - self explanatory (usually exclusive or full-time corporate, legal aid, or public sector lawyer. Please identify the employer.)
- 3(a)- self explanatory (usually appropriate for part-time Bankruptcy trustees)
- 4 - self explanatory (usually appropriate for the employee or associate of a law firm who does not have trust account writing authority.) At this point, inactive, retired, full-time corporate, legal aid, or public sector lawyers, and associates without trust account check writing authority may sign the form and stop.

All others should have trust accounts and must provide the following information:

- 5 - state the name, address, and account number of trust account financial institution
  - 6 - the blanks should be completed with the most recent monthly trust account reconciliation.
- Keep in mind monthly reconciliations are required. For example, if this form were completed on 12-15-10, you would insert the closing date of the most recent bank statement (i.e. 11-30-10).
- 6(a)-(h), and 7 - type or print yes or no in space provided. If you can answer "yes" to each of these questions, you are in compliance with Supreme Court Rule 91-10. If you must answer any of these in the negative, you need to make changes in your trust accounting system. A negative answer will result in further inquiry.
- 8 - This question merely requires you to confirm that a monthly reconciliation was performed and if there were errors/inconsistencies in the reconciliation, to explain the same. I remind you that the effective date of this rule was July 1, 1991. It is not too late to perform the monthly reconciliations from and after July 1, 1991, through the date of completion of this form; however, monthly reconciliations must be performed prospectively.
- I have heard from a number of lawyers who have said that their trust account has an odd amount, such as \$4.54, which has been in the account for ages and the client has disappeared. The compliance report should so note the amount and reason (lawyer unable to disperse the sum of \$4.54 belonging to a client because client is not able to be located).
- Thereafter, if the amount remains constant (\$4.54 as in this example), no further explanation is necessary in subsequent compliance forms.

The rule does not require, nor do we want the amounts held in trust, the identities of clients, or any other confidential information. If all partners in a law firm use a common trust account, one form may be submitted provided all partners sign the form. Please type your name under your signature. This will avoid nuisance phone calls or letters trying to ascertain who signed the forms.

All lawyers must submit the compliance form no later than January 31, 2021. **Please submit compliance forms after reviewing your December bank statements.** If you have questions, please give me a call. ALF

## 2021 CERTIFICATE OF COMPLIANCE

TO: The Secretary-Treasurer, **The State Bar of South Dakota, 111 West Capitol Avenue, Suite 1, Pierre, SD 57501**

Dear Sir: I/we (Please list all persons signing the form here) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

member(s) of the State Bar of South Dakota certify that during the 12-month period preceding the date of this report:  
**(Check the following items where applicable and/or fill in the blanks.)**

1. I (we) have engaged in the private practice of law in South Dakota as:

\_\_\_\_ (a) a sole practitioner;

\_\_\_\_ (b) a partner or shareholder of a firm practicing under the name of;

\_\_\_\_ (c) an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of \_\_\_\_\_;

and I maintain separate books, records and accounts showing all legal business performed by me.

\_\_\_\_ 2. I have not engaged in the practice of law in South Dakota, and I have neither handled nor been responsible for either clients' trust funds or clients' trust property in South Dakota.

\_\_\_\_ 3. I have practiced law in South Dakota exclusively as an employee of (designate name of government agency, corporation, or other non-member of the Bar) \_\_\_\_\_

and I do not handle or become responsible for money or property in a lawyer-client relationship, other than money or property received in the course of official duties and disposed of in accordance with regulations and practices of (designate name of government agency).

\_\_\_\_ a. I have served as a trustee in one or more cases under Title 11 of the United States Code, and I am accountable for all funds I handled in connection therewith to the Office of the United States Trustee, which office is statutorily charged with the responsibility for reviewing and supervising my trust operations; therefore, my handling of such funds is not separately accounted for herein in connection with my private practice of law, and I further certify that I am in compliance with all such accounting requirements of said Office.

\_\_\_\_ 4. I have engaged in the practice of law in South Dakota as an employee or as an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of \_\_\_\_\_

and to the best of my knowledge all legal business performed by me is shown in the books, records and accounts of such sole practitioner or firm.

**(Only lawyers checking categories 2, 3, 3a, or 4 may sign below. See instructions.)**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Full Name (Print or Type)

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip

Date \_\_\_\_\_, 2022

**Please state the total number of hours of pro bono service, as defined by the South Dakota Rules of Professional Conduct 6.1, that you (or the whole firm) provided in 2021. Enter 0 if none. Total Hours: \_\_\_\_\_.**

Rule 6.1. Voluntary Pro Bono Public Service

A lawyer should render public interest legal service.

A lawyer may discharge this responsibility by: (a) providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations; or (b) by service without compensation in public interest activities that improve the law, the legal system or the legal profession; or (c) by financial support for organizations that provide legal services to persons of limited means.

(Attorneys checking categories 1a, 1b, or 1c must answer the following questions. See instructions.)

5. My (our) trust account(s) or the trust account(s) of the firm or association of which I am a partner or shareholder is (are) at the (name and address of banking institution) \_\_\_\_\_

(and bears the following name(s) and number(s) \_\_\_\_\_

6. During the fiscal period ended December 31, 2021, to the best of my (our) knowledge I (we), or the firm of which I am a member, as the case may be, maintained books, records and accounts to record all money and trust property received and disbursed in connection with my/our practice, and as a minimum I/we maintained:

- a. A separate bank account or accounts located in South Dakota, in the name of the lawyer or law firm and clearly labeled and designated a "trust account." \_\_\_\_\_(Yes or No) *(An out of state member may strike "South Dakota" and insert the state where his/her trust account is located.)*
- b. Original or duplicate deposit slips and, in the case of currency or coin, an additional cash receipts book, clearly identifying the date and source of all trust funds received, and specific identification of the client or matter for whom the funds were received. \_\_\_\_\_(Yes or No)
- c. Original canceled checks or copies of both sides of the original checks produced through truncation or check imaging or the equivalent, for all trust disbursements. \_\_\_\_\_(Yes or No)
- d. Other documentary support for all disbursements and transfers from the trust account. \_\_\_\_\_(Yes or No)
- e. A separate trust account receipts and disbursements journal, including columns for receipts, disbursements, and the account balance, disclosing the client, check number, and reason for which the funds were received, disbursed or transferred. \_\_\_\_\_(Yes or No)
- f. A separate file or ledger, with an individual card or page for each client and matter, showing all individual receipts, disbursements and any unexpended balance. \_\_\_\_\_(Yes or No)
- g. All bank statements for all trust accounts. \_\_\_\_\_(Yes or No)
- h. Complete records of all funds, securities and other properties of a client coming into my/our possession, and rendered appropriate accounts to my/our clients regarding them. \_\_\_\_\_(Yes or No)

7. During the same fiscal period identified in section 6 above, I, or the firm of which I am a member, complied with the required trust accounting procedures, and as a minimum I/we prepared monthly trust comparisons, including bank reconciliations and an annual detailed listing identifying the balance of the unexpended trust money held for each client or matter. \_\_\_\_\_(Yes or No)

8. In connection with section 7 above, I or the firm of which I am a member, have completed the following procedures during the fiscal period herein: compared each month the total of trust liabilities and the total of each trust bank reconciliation, and there were (check one of the following)

- \_\_\_\_\_no differences between the totals, excepting those determined to be the result of bank error;
- \_\_\_\_\_differences. (Give full particulars below, identifying the months in which there were differences, the amounts involved, and the reason for each item contributing to a difference. Attach additional pages if necessary.)

9. a. \_\_\_\_\_The undersigned lawyer(s) do not have professional liability insurance; ***(If you checked box 9(A), you must attach a representative copy of the letterhead you used to disclose the lack of insurance to your clients.)*** or

b. \_\_\_\_\_The undersigned lawyer(s) have professional liability insurance, the name of the insurance carrier, policy number and limits are as follows: \_\_\_\_\_

10. If you are a solo practitioner, have you made arrangements with another lawyer to secure your files and trust account and protect your clients in the event of your death or disability? Yes \_\_\_\_\_No \_\_\_\_\_

*(This is not currently a requirement, but very much encouraged. Please check out the state bar website for checklists and forms for solo practitioners planning for unexpected death or disability.)*



I am a member of the State Bar of South Dakota filing this report, and to the best of my knowledge and belief the facts as reported herein are accurate, and I certify that I have at all material times been in compliance with Rule 1.15 of the Rules of Professional Conduct entitled Safekeeping Property and SDCL 16-18-20.1 and 16-18-20.2.

(All partners, shareholders, or associates checking categories 1a, 1b, or 1c must sign here. Attach additional signature pages if necessary.)

(Signatures)

(Printed Name)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_, 2022

Date

*Additional signature and attachment is needed if responding lawyer checked box 9(A) : The undersigned lawyer(s) not having insurance, do hereby certify that pursuant to Rule 1.4(c), I have advised my clients of the lack of professional liability insurance during the reporting period and I have attached hereto a copy of my law office letterhead disclosing the lack of insurance, in the required format, pursuant to Rule 7.5 of the Rules of Professional Responsibility.*

All Responding Lawyer Signatures:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_, 2022

Date



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## **Diversity and Inclusion Award**

### **Purpose**

The Diversity and Inclusion Award serves to recognize members of the State Bar of South Dakota who actively promote diversity and inclusion in the legal profession. Recipients of the award contribute to and enhance the environment of inclusions in the legal profession, particularly in South Dakota.

### **Eligibility Criteria**

To be eligible to receive the Diversity and Inclusion Award, an individual must be a member in good standing of the State Bar of South Dakota and must demonstrate an exceptional understanding of diversity and inclusion beyond the call of duty as represented by the following criteria:

- Enhances inclusion through positive communication between persons of different backgrounds
- Demonstrates a commitment to the values of diversity and inclusion through documented efforts that are above and beyond the routine expectations
- Develops innovative methods for increasing and valuing diversity through wide-ranging activities
- Demonstrates outstanding efforts to promote an environment free from bias and discrimination
- Organizes, creates, and facilitates various professional or community events promoting diversity, respect, and inclusion
- Shows efforts to recruit and retain individuals who increase the diversity of the State Bar of South Dakota
- Promotes the sponsorship of, or active participation in, programs, initiatives, or projects in the area of diversity and inclusion

### **Nomination Process and Presentation of Award**

Every year in the spring, the Lawyers Committee on Diversity and Inclusion (LCDI) will publish an invitation in the South Dakota State Bar Newsletter soliciting nominations for the Award. To be considered, nominations must be received by LCDI no later than March 1, 2022. Each nomination should include a brief synopsis of the nominee's commitment to diversity, inclusion, and equal participation in the legal profession. Each nominee's materials will then be reviewed by a subcommittee of the LCDI. The LCDI will then, by a majority vote, select one or more recipients who best exemplify the eligibility criteria. All recipients of the Award will be notified no later than May. The Award will be presented during the State Bar annual meeting in June. The Awards will be presented by a representative of the LCDI.



**2021 Diversity and Inclusion Award  
Nomination Form**

**1. Nominee Information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**2. Nominator's Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*How do you know the Nominee:* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3. Synopsis**

***A one-page synopsis must be attached to this nomination form. The synopsis should clearly identify the qualifications & attributes of the nominee.***

Completed nomination forms, and attachments thereto, are to be emailed to:

[access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net)

Or mailed to:

**Diversity & Inclusion Award Committee  
C/O Access to Justice, Inc.  
111 W. Capitol Ave. #1  
Pierre, SD 57501**



## How to Responsibly Embrace Any and All Digital Tech in the Practice of Law

In many jurisdictions, commentary to Rule of Professional Conduct 1.1 Competency states that lawyers are to keep abreast of the benefits and risks associated with relevant technology. With that language in mind, do you actually do so? I ask because in my world I often find that lawyers are pretty good at evaluating the benefits of any technology they are considering using. It's evaluating the risks that seems to get the short shrift in the decision-making process for any number of reasons, not the least of which is that doing so can be such a killjoy.

Consider voice assistants like Google Assistant, Siri or Alexa. All have a serious coolness and convenience factor; and it certainly appears that the adoption rate and degree of integration of these and other voice user interface technologies into every facet of our lives will

only continue to increase. Next, factor in the movement toward smart homes and smart offices, which also seems to have advanced beyond the early adoption stage. So again, if you are already using or are thinking about using voice assistants and/or smart office devices in your practice (think internet connected light bulbs, security cameras, access locks, coffee pots, and the list goes on), have you looked into the associated risks? For example, confidentiality concerns and the introduction of another phishing attack vector are risks that come immediately to my mind with the use of voice assistants; and if you can control a smart office device remotely via the Internet, so can a hacker.

Now hang with me here, because the purpose of this article isn't what you might be thinking. I'm not trying to raise a siren call out of a personal fear that embracing

digital tech might be your downfall. That said, before I share my main point, I do have one more example I'd encourage you to think about.

Have you ever had a client or other guest enter your office and while sitting down take out their smartphone and say something along the lines of "let me put this on silent mode" or "let me turn this off" and then place the phone down in front of them or perhaps put it back in their pocket? If so, have you ever considered that once in a while someone might actually be enabling the record function instead of powering down or placing the phone in silent mode? This can and sometimes does happen. Please understand I'm not trying to suggest that lawyers should never allow anyone to bring a smartphone into their offices. I'm simply trying to remind you that smartphones are sophisticated pocket-sized computers that come with all kinds of capabilities and I suspect few of us ever really take the time to think about what others might be doing with these computers while in our presence.

The point I'm trying to make is this. Voice assistants, smart phones and every other digital tech tool out there come with certain inherent benefits and risks that we are charged with having to understand and consider prior to using any such tool in the day-to-day practice of law. While the benefits of these tools are at times almost self-evident, the risks often aren't. Killjoy or not, the potential risks of every tech tool do need to be investigated and understood prior to making any purchases. Doing so is the only way to make an informed decision about how to deploy these tools in an ethically responsible way. This will also help you establish some parameters around what employees and guests can and can't do with any digital tech tools they bring into your professional space. If you haven't given much thought to the risk side of the equation, all I can say is it's time to start.

The Department of Human Service's  
Establishment Fund Program  
is looking for attorneys across  
South Dakota willing to handle  
cases establishing guardianships  
for a flat fee.

*The goal is to increase access  
for those needing to create  
guardianships for individuals  
with disabilities.*

If interested, please contact Jenna Howell  
at 605-773-5946 or  
Jenna.Howell@state.sd.us.



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Authored by: Mark Bassingthwaighte, Risk Manager

Since 1998, Mark Bassingthwaighte, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaighte has conducted over 1200 law firm risk management assessment visits, presented over 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics, and technology. Mr. Bassingthwaighte is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He received his J.D. from Drake University Law School.



# *In Memoriam*



Richard Wayne Sabers  
February 12, 1938 -  
January 12, 2022

Richard (Dick) Wayne Sabers was born in Salem, South Dakota, on February 12, 1938. Dick passed away on January 12, 2022, in Sioux Falls, South Dakota, at the age of 83. He was one of nine siblings born to Emil and Elrena (Godfrey) Sabers. He graduated from Salem St. Mary's High School in 1956 and enrolled at St. John's University in Collegeville, Minnesota. At St. John's, he played first base for, and served as captain of, the baseball team. He received his Bachelor of Arts degree from St. John's in 1960 and went on to serve as a First and Second Lieutenant in the United States Army Corps of Engineers, stationed primarily in Europe. Dick also served as a First Lieutenant and later as a Captain in the United States Army Reserve from 1963-69.

Following his service with the Corps of Engineers, Dick enrolled in law school at the University of South Dakota School of Law. He received his Juris Doctorate from the University in 1966. After law school, Dick entered private practice at the Sioux Falls law firm of Moore, Rasmussen, Sabers and Kading. He maintained a very active trial practice until March 1, 1986, when Governor Janklow appointed him to serve on the South Dakota Supreme Court.

Dick served on the Court for more than twenty years and was retained by the voters during the 1990, 1998, and 2006 general elections. He was one of the longest serving Justices in the Court's history. He loved his work with the Court, and it was his honor to serve the State of South Dakota in that role. He retired on December 31, 2008. During his distinguished legal career, Justice Sabers was awarded the Fred Nichol Award for Outstanding Jurist in 2007 by the South Dakota Trial Lawyers Association, and the Marshall M. McKusick Award for Outstanding Member of the South Dakota State Bar Association in 2008.

Dick married Colleen (Kelley) Sabers in August of 1965. They were happily married for 33 years. Dick

and Colleen had three children, Steven (Candace) of Minnetonka, Minnesota; Susan of Sioux Falls, South Dakota; and Michael (Cathy) of Rapid City, South Dakota, of whom they were incredibly proud. The family placed a significant value on education; that same education was one of the greatest gifts Dick and Colleen gave their children. Steven and Michael joined their father as graduates of St. John's University, while Susan chose the rival school of University of St. Thomas. Dick watched his oldest attend Mayo Medical School and his two youngest attend the University of South Dakota School of Law. Steven practices medicine in the Twin Cities. Susan shared her father's interest in the judicial branch and currently serves as a Circuit Court Judge in Sioux Falls. Michael is an attorney practicing in Rapid City. Dick was incredibly proud of his children's accomplishments. His children produced six grandchildren: Connor and Annika Sabers; Quinn and Zachary Dunham; and Morgan and Emily Sabers, about whom Dick also loved to brag.

After Colleen's untimely death in 1998, Dick was lucky enough to fall in love again. He married Ellie (Lammers) Schmitz in June of 2000. Ellie brought her three children to the family: Jason (Cindy) of Vermillion; Joseph (Marcia) of Sioux Falls; and Ann of Omaha, Nebraska, along with an additional six grandchildren. Dick and Ellie made their home in Sioux Falls and wintered in Arizona.









Dick had many wonderful friends and family with whom he remained close over the years. He took great pleasure in reading and traveling and was always ready to share stories of his adventures. He loved baseball, tennis, biking, woodcarving, O'Gorman football, and the Chicago Cubs. He spent summers at his cabin at Lake Madison with his family, friends, and favorite sailboat. He will be greatly missed by many, both personally and professionally.

The family wishes to thank the staff of Dougherty Hospice House for their compassionate care during Dick's final days.

In lieu of flowers the family kindly asks that memorials be direct to The University of South Dakota School of Law Foundation or St. John's University.

Our confidential resource and referrals are available at no cost to you. Services with referral sources are optional and fees may exist.

#### GET HELP WITH:

-  Family Conflict
-  Couples/Relationships
-  Substance Abuse
-  Work/Life Balance
-  Stress
-  Depression/Anxiety
-  Grief
-  Parenting

## YOU HAVE ACCESS TO MENTAL HEALTH COUNSELING

Short-term counseling by licensed, Master's-level counselors via phone, mobile app, chat, and video. Available to you and your household members 24/7.



#### EVERYDAY ASSISTANCE:

Overwhelmed and scared about her teen's active substance misuse, Gina called in looking for assistance. She received an appointment with a counselor, and during their sessions, she learned parenting strategies and boundary-setting to help manage the situation. Gina also received information about local treatment programs for her son and family support groups.

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Company Code: sbsd1

Toll-Free: 1-888-243-5744

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## Looking for more information on the Involuntary Commitment Process for Substance Abuse Disorder?

The Department of Social Services, Division of Behavioral Health and the Unified Judicial System created a short video and workbook outlining the role and responsibilities of attorneys in the substance use disorder involuntary commitment process, including the procedures to be followed. View the video and download a copy of the workbook on the DSS Behavioral Health website under the Substance Use Disorder Involuntary Commitment Criteria Tab.

<https://dss.sd.gov/behavioralhealth/services.aspx>



South Dakota  
Department of  
**Social Services**

Strong Families - South Dakota's Foundation and Our Future

# Reduce Stress and Increase Productivity with Organization

by Mrg Simon

Stress and burnout are serious issues facing professionals today. A recent poll by Sioux Falls Business reveals that 40% of us are working more than before the pandemic, and 58% are more stressed than they were before the pandemic. Mental health professionals agree that the result is psychological distress, anxiety, frustration, memory loss, and chaos. These issues are exacerbated when your physical environment is disorganized, you struggle to find documents and files, and just can't fit all your obligations into your workday.

But how to make a meaningful dent in the negative impact on our well-being and productivity? I'm all for taking a walk and meditating more, but I need a lasting, substantive solution. I found it where I least expected it: on Netflix.\* I happened upon the show "The Joy of Tidying" with Marie Kondo a few years back and it has changed my life, personally and professionally.



Marie Kondo

Kondo approaches decluttering and organizing as a means to an end. To paraphrase her words in the book "Spark Joy," 'A tidied home or office is not an objective – it's a tool to bring us our ideal lifestyle.' She teaches that the key to finding that calm and relaxed pace we crave is to first identify or recall what our ideal life (or career) is like, and then declutter in a categorical way so that all decisions support that objective.

You might be skeptical that organizing your office can make a dent in stress levels or improve productivity. Kondo translates the process of tackling physical and digital chaos into a master key to a joyful career in her most recent book "Joy at Work," co-authored with organizational psychologist Scott Sonenshein. His research shows that tidying up at work makes you more productive, reflects positively on employee evaluations, and engenders trust. This raises self-esteem and increases motivation, allowing us to work smarter and achieve more of our goals.

The impact on productivity is real. Sonenshein's research revealed that searching for lost or misplaced items at work is so common that, on average, one workweek is lost *per employee, per year* looking for a missing item. That's an \$89 billion annual loss in productivity, according to him.

What do you have to lose other than stress and a lot of clutter? I gave it a try first at home and then at the office. I sorted my way through everything I own, touching each item as I decided whether to keep, donate or discard, going from the easiest to the hardest category. Somewhere in about the second or third category, a metaphorical weight lifted from my shoulders. I was freed of the "stuff" that was holding me back and was gaining control over my possessions and how I want to live my life personally and professionally. Organizing your office has the power to reduce stress and restore a sense of calm and control. Then you can make decisions based on a renewed sense of purpose and without the stress that clutter creates in our lives.

Mrg Simon is a member of the SD Bar and a Certified KonMari Consultant.



# decluttering + organizing

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## REMINDER

Press Pause on what you're doing and take 10 deep breaths

Accept

Decline

## ATTORNEYS - OATH OF ATTORNEY

*I do solemnly swear, or affirm, that:*

*I will support the Constitution of the United States and the Constitution of the State of South Dakota;*

*I will maintain the respect due to courts of justice and judicial officers;*

*I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;*

*I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;*

*I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with a client's business except from that client or with the client's knowledge or approval;*

*I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;*

*I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.*

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

---

Foundation funds go to very important projects, including: Legal Services Programs in SD, Rural Lawyer Recruitment, SD Public Broadcasting of Legislative Sessions, SD Guardianship Program, Teen Court, Ask-A-Lawyer and Educational videos on aging, substance abuse and mental health issues.

Full Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

*I would like to contribute:*

☐ in Lump Sum    ☐ Annually    ☐ Semi-Annually    ☐ Quarterly    ☐ Monthly

- ☐ Life Patron Fellow – \$100,000 or more, cumulative.
- ☐ Sustaining Life Fellow – \$50,000 or more, cumulative.
- ☐ Life Fellow – \$25,000 or more, cumulative.
- ☐ Diamond Fellow – over \$10,000, cumulative.
- ☐ Platinum Fellow – \$10,000, cumulative.
- ☐ Gold Fellow – \$5,000, cumulative.
- ☐ Silver Fellow – \$1,000 per year.
- ☐ Fellow – \$500 per year.

### In Memoriam

Donations in memory of a lawyer or judge may be made and will be deposited in the endowment fund. Such donations will be combined to qualify the deceased lawyer/judge as a fellow.

Today I am sending \$\_\_\_\_\_ (amount) to begin my gift.

Mail payment to:

State Bar of South Dakota

111 W Capitol Ave. #1

Pierre, SD 57501

Or you can email this form to:

[tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) or call 605-224-7554 to set up a payment.

*Donations to the endowment are tax deductible and a perpetual gift to our profession and the education and charities the Foundation supports.*

# BOARD OF BAR COMMISSIONERS

Minutes, October 22, 2021

Red Rossa, Prairie Room

Pierre, South Dakota

President William Garry called the meeting to order at 9:00 a.m. Central Time on Friday, October 22, 2021, in Pierre, South Dakota. Present at the meeting were Garry, President Elect Lisa Marso, Commissioners, Aasen, Christensen (via Zoom), Dougherty (via Zoom), Foral, Johnson, King (via Zoom), Pickar (via Zoom), Richter, Roby (via Zoom), Tiede, and Trefz. Also, present during all or part of the meeting were Executive Director/Secretary-Treasurer Andrew Fergel, Strategic Plan Coordinator Elizabeth Overmoe (via Zoom), Assistant Executive Director Nicole Ogan, Access to Justice, Inc. Coordinator Denise Langley, and Young Lawyers Section President Ole Olesen.

Minutes of September 14, 2021, Meeting: Commissioner Aasen moved to approve the minutes of the September 14, 2021, meeting held via Zoom. Commissioner Johnson seconded the motion. Motion passed.

Young Lawyers Section Report: Ole Olesen, President Elect of the Young Lawyers Section reported on the section's ongoing activities for this fiscal year.

Lawyers Assistance Program Report: Rebecca Porter provided a written report to the Commission concerning her work as the LAP Director. Ms. Porter's report was included in the materials placed on the Commission's Online Community page of the State Bar's member hub with the other materials for the meeting.

Strategic Plan Update: Strategic Plan Coordinator Elizabeth Overmoe gave a short update on the State Bar's strategic plan and the upcoming retreat of the Strategic Plan Committee on May 20, 2022, in Sioux Falls that will focus on "Pathways" to the legal profession. As part of her report, Ms. Overmoe let the Commission know that work had been completed on the Guardianship/Conservatorship training video and she played a portion of the video for the Commission. Thereafter, members of the Commission thanked Ms. Overmoe for the work she and various Bar committee members had put into writing the script for the video and the production of the training video.

Financial Report: Fergel and Ogan presented a financial report to the Commission that included information about fund balances in all the operational accounts for the State Bar of South Dakota, SD CLE, Inc., and Access to Justice, Inc. After presentation of the report, Commissioner King made a motion to accept the financial report as presented. The motion was seconded by Commissioner Pickar. Motion passed.

Supplement to YLS Budget to Support ABA YLD Secretary Tamara Nash: Tamara Nash was recently elected Secretary of the ABA Young Lawyers Division. By virtue of being elected Secretary of the YLD, Ms. Nash will ascend to President of the YLD. To support Ms. Nash in her national role as YLD Secretary a motion was made by Commissioner Aasen to supplement the 2021-2022 budget of the Young Lawyers Section of the State Bar of South Dakota by \$7,000.00 to be used solely for the purpose of supporting Ms. Nash in her role as YLD Secretary for in FY 2021-2022. The motion was seconded by Commissioner Foral. After discussion the motion passed.

Renewal of State Bar Employee Health Plan with Avera: Fergel ask the Commission to approve renewing the State Bar's Employee Health Plan with Avera. Fergel informed the Commission that to renew the current plan, monthly premium for the plan in the new plan year would increase from \$1,502.10 per month to \$1,660.42 per month. A motion was made by Commissioner Pickar to authorize the Executive Director to renew the State Bar Employee Health Plan with Avera as presented to the Commission. The motion was seconded by Commissioner Christensen. Motion passed.

Discussion on Insurance Coverage: Fergel gave an overview of the insurance coverages currently in place for the State Bar and Officers and Directors of the State Bar. Thereafter, a discussion was held about the various types of policies that may be beneficial for the Bar to have in place. Fergel informed the Commission that he has requested quotes for employment practices liability insurance and officer/director insurance. Once the Bar receives the insurance quotes, they will be presented to the Commission for consideration.

Update on Association Healthcare Plan for State Bar: Fergel informed the Commission that the Bar is continuing to explore creating an Association Healthcare Plan for the State Bar, its members, and the members' employees. Fergel stated that the producer working on developing the plan had to switch providers and that will delay presentation of a specific proposal until April/May of 2022.

2022 Legislative Session: Fergel gave a short report about what the Bar would be working on during the upcoming 2022 legislative session.

State Bar of South Dakota to Host Jackrabbit Bar Conference in 2022: Fergel informed the Commission that the dates the South Dakota State Bar will host the Jackrabbit Bar Conference in 2022 are June 2<sup>nd</sup> through June 4<sup>th</sup>, 2022. Fergel stated that he hoped to submit a budget for hosting the event in the next month or two.



There being no further business, President Garry adjourned the meeting.

Respectfully submitted,

Andrew L. Fergel  
Executive Director/Secretary-Treasurer

BOARD OF BAR COMMISSIONERS  
Minutes, December 15, 2021  
Meeting Held by ZOOM

President Bill Garry called the meeting to order at 9:00 a.m. Central Time on Wednesday, December 15, 2021. Present were President Garry, President Elect Lisa Marso, Commissioners Christensen, Johnson, Kempema, King, Pickar, Richter, Roby, Skjoldal, Tiede, and Trefz. Also, present were Secretary-Treasurer Andrew Fergel and Strategic Plan Coordinator Beth Overmoe.

Minutes of October 22, 2021, Bar Commission Meeting: Commissioner Pickar made a motion to approve the minutes of the October 22, 2021, Bar Commission meeting. The motion was seconded by Commissioner Johnson. Motion passed.

Executive Director's Report: Executive Director Fergel gave a report on the items he and staff have been working on since the October 22, 2021, Bar Commission meeting.

Budget for 2022 Jackrabbit Bar Conference: The State Bar of South Dakota is the host Bar for the 2022 Jackrabbit Bar Conference to be held June 2<sup>nd</sup> through June 4<sup>th</sup>, 2022. Executive Director Fergel presented a budget for hosting the conference with revenues estimated at \$19,100.00 and expected expenses at \$19,100.00. A motion was made by Commissioner Kempema to approve the budget for hosting the 2022 Jackrabbit Bar Conference as presented. The motion was seconded by Commissioner Pickar. Motion passed.

Adjourn: President Elect Marso made a motion to adjourn the meeting. The motion was seconded by Commissioner King. The motion passed and the meeting was adjourned.

Respectfully submitted,

Andrew L. Fergel  
Secretary-Treasurer

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE AMENDMENT )  
SDCL 15-5A-1 )  
 )

RULE 22-01

-----  
A hearing was held on November 9, 2021, at Pierre,  
South Dakota, relating to the amendment of SDCL 15-5A-1  
and the Court having considered the proposed amendment, oral  
presentation relating thereto and being fully advised in the  
premises, now, therefore, it is

ORDERED that SDCL 15-5A-1 be and it is hereby  
amended to read in its entirety as follows:

**SDCL 15-5A-1. General provisions.**

Whenever a proceeding in civil or criminal court is  
permitted under these rules to be conducted by interactive  
audiovisual device, the device shall enable a judge or magistrate  
to see and converse simultaneously with the parties, their counsel  
or other persons including witnesses. The interactive audiovisual  
signal shall be transmitted live and shall be secure from  
interception through lawful means by anyone other than the persons  
participating in the proceeding.

Parties and witnesses appearing by means of an  
interactive audiovisual device at proceedings authorized under this  
chapter to be conducted by such device are deemed to be present at  
the proceedings. Proceedings conducted by interactive audiovisual  
device under this chapter are also deemed to be conducted in open  
court unless otherwise closed to the public pursuant to statute.

A judge or any other person authorized by law to  
administer oaths may administer an oath to a witness who is not  
personally present but who is appearing by means of the interactive  
audiovisual device. The provisions of SDCL § 22-29-1 shall apply  
even though the person taking the oath was not personally present  
before the person administering the oath, and prosecution for  
perjury shall take place in the jurisdiction of the tribunal  
receiving the interactive audiovisual testimony.

RULE 22-01

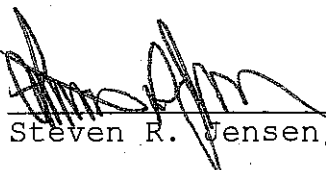
If ~~a party~~ parties and their counsel are at different locations, arrangements must be made so that they can communicate privately. Facilities must be available so that any documents filed or referred to during the interactive audiovisual communication, or required to be provided to a ~~defendant~~ party, his or her counsel, or a witness prior to or during the proceeding, may be transmitted electronically, including, but not limited to, facsimile, personal computers, other terminal devices, and local, state, and national data networks. Any documents furnished by means of such an electronic data transmission may be served or executed by the person to whom it is sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures on the electronic data transmissions shall be treated as original signatures.

Nothing contained herein shall be construed as affecting a defendant's right to waive counsel.

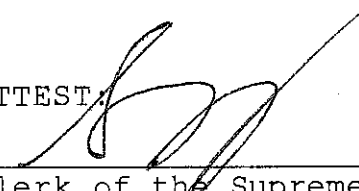
IT IS FURTHER ORDERED that this rule shall become effective February 1, 2022.

DATED at Pierre, South Dakota, this 5th day of January, 2022.

BY THE COURT:

  
Steven R. Jensen, Chief Justice

ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN -5 2022

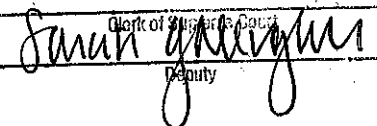
  
Clerk

STATE OF SOUTH DAKOTA

In the Supreme Court

I, Shirley A. Jamison-Fergal, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

5 day of Jan 2022

  
Sarah Jamison-Fergal  
Deputy

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE AMENDMENT  
SDCL 15-26A-87.1

)  
)  
)

RULE 22-02

-----  
A hearing was held on November 9, 2021, at Pierre, South Dakota, relating to the amendment of SDCL 15-26A-87.1 and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-26A-87.1 be and it is hereby amended to read in its entirety as follows:

**SDCL 15-26A-87.1. Disposition on briefs and record--  
Grounds--Citation of decisions restricted.**

(A) After all briefs have been filed in any appeal, the Supreme Court by unanimous action may, sua sponte, enter an order or memorandum opinion affirming the judgment or order of the trial court for the reason that it is manifest on the face of the briefs and the record that the appeal is without merit because:

- (1) The issues are clearly controlled by settled South Dakota law or federal law binding upon the states;
- (2) The issues are factual and there clearly is sufficient evidence to support the jury verdict or findings of fact below; ~~or~~
- (3) The issues are ones of judicial discretion and there clearly was not an abuse of discretion; or
- (4) Other good cause exists for summary affirmance, in which case the order or memorandum shall contain a succinct statement of the reason for affirmance.

(B) Notwithstanding the provision in section (A) requiring unanimous action, an order or memorandum opinion affirming the judgment or order of the trial court may be entered pursuant to subsections (1) through ~~(3)~~ (4) of section (A) on a majority vote, even though the claim may have merit in the view of the minority, provided that all justices participating in the action shall agree that such summary disposition of the action may be made.



**RULE 22-02**

(C) After all briefs have been filed in any appeal, the Supreme Court by unanimous action may, sua sponte, enter an order or memorandum opinion reversing the judgment or order of the trial court for the reason that it is manifest on the face of the briefs and the record that it is clear the order or judgment is ~~clearly~~ erroneous for one or more of the following reasons:

- (1) Summary judgment was erroneously granted because a genuine issue of material fact exists;
- (2) The judgment or order was clearly contrary to settled South Dakota law or federal law binding upon the states; ~~or~~
- (3) The issue on appeal is one of judicial discretion and there clearly was an abuse of discretion; or
- (4) Other good cause exists for summary reversal, in which case the order or memorandum shall contain a succinct statement of the reason for reversal.

(D) Notwithstanding the provision in section (C) requiring unanimous action, an order or memorandum opinion reversing the judgment or order of the trial court may be entered pursuant to subsections (1) through ~~(3)~~ (4) of section (C) on a majority vote, even though the claim may have merit in the view of the minority, provided that all justices participating in the action shall agree that such summary disposition of the action may be made.

(E) A list indicating the disposition of all decisions rendered by the Supreme Court under this section shall be published quarterly in the Northwestern Reporter. Such decisions shall not be cited or relied upon as authority in any litigation in any court in South Dakota except when the decision establishes the law of the case, res judicata or collateral estoppel, or in a criminal action or proceeding involving the same defendant or a disciplinary action or proceeding involving the same person.

A petition for rehearing of a cause decided under this section may be served and filed pursuant to the provisions of § 15-30-4.


Costs in favor of the prevailing party shall be assessed as provided in chapter 15-30.

Rule 22-02

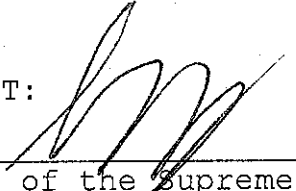
IT IS FURTHER ORDERED that this rule shall become effective February 1, 2022.

DATED at Pierre, South Dakota, this 5th day of January, 2022.

BY THE COURT:

  
Steven R. Jensen, Chief Justice

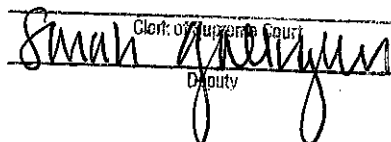
ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN - 5 2022

  
Clerk

STATE OF SOUTH DAKOTA  
In the Supreme Court  
I, Shirley A. Jamison-Fergal, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this  
5 day of Jan 2022  
  
Clerk of Supreme Court  
Deputy

STATE OF SOUTH DAKOTA  
In the Supreme Court  
I, Shirley A. Jamason-Ford, Clerk of the Supreme Court of  
South Dakota, hereby certify that the within instrument is a true  
and correct copy of the original thereof as the same appears  
on record in my office. In witness whereof, I have hereunto set  
my hand and affixed the seal of said court at Pierre, S.D. this

5 day of Jan, 2022

*Shirley A. Jamason-Ford*  
Clerk of Supreme Court  
Deputy

IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

\* \* \* \*

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN -5 2022

*Shirley A. Jamason-Ford*  
Clerk

IN THE MATTER OF THE AMENDMENT )

SDCL 15-30-1 )

RULE 22-03 )

-----  
A hearing was held on November 9, 2021, at Pierre,  
South Dakota, relating to the amendment of SDCL 15-30-1  
and the Court having considered the proposed amendment, oral  
presentation relating thereto and being fully advised in the  
premises, now, therefore, it is

ORDERED that SDCL 15-30-1 be and it is hereby  
amended to read in its entirety as follows:

**SDCL 15-30-1. Remand to trial court to permit motion  
for new trial.**

Whenever, after appeal to the Supreme Court, it shall  
appear to the satisfaction of the Supreme Court upon application of  
a party that the ends of justice require that such party should be  
permitted to make a motion for a new trial for a cause set forth in  
subdivision 15-6-59(a)(1), (2), (3), or (4), and that sufficient  
excuse exists for not having made said motion prior to the appeal,  
the Supreme Court may remand the record to the trial court for the  
purpose of making such motion, but no such remand shall be made  
unless such motion can be made and hearing thereon had in the trial  
court within sixty days from and after the date on which the time  
for appeal commences unless the Supreme Court extends the time for  
good cause shown.

IT IS FURTHER ORDERED that this rule shall become  
effective February 1, 2022.

DATED at Pierre, South Dakota, this 5th day of January,  
2022.

BY THE COURT:

*Steven R. Jensen*  
Steven R. Jensen, Chief Justice

ATTEST:

*[Signature]*  
Clerk of the Supreme Court  
(SEAL)



STATE OF SOUTH DAKOTA

In the Supreme Court

I, Shirley A. Jameson, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

5 day of Jan, 2022

*Shirley A. Jameson*  
Clerk of Supreme Court  
Deputy

IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

\* \* \* \*

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN -5 2022

*Shirley A. Jameson*  
Clerk

IN THE MATTER OF THE AMENDMENT )  
OF THE COMMENTARY TO CANON 3(B) )  
(5) AND (6) CONTAINED IN APPENDIX )  
A TO SDCL CHAPTER 16-2 SOUTH )  
DAKOTA CODE OF JUDICIAL CONDUCT )

RULE 22-04

-----  
A hearing was held on November 9, 2021, at Pierre, South Dakota, relating to the amendment of the commentary to Canon 3(B) (5) and (6) contained in appendix A to SDCL Chapter 16-2 South Dakota Code of Judicial Conduct to clarify the responsibilities and expectations for members of the judiciary related to sexual harassment or sexual misconduct and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that the commentary to Canon 3(B) (5) and (6) contained in appendix A to SDCL Chapter 16-2 South Dakota Code of Judicial Conduct be amended to read in its entirety as follows:

**CANON 3 A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.**

**B. Adjudicative Responsibilities.**

**Canon 3(B) (5) and (6)**

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

(6) A judge shall require\* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin,

disability or age, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability or age, or other similar factors, are issues in the proceeding.

B(5) and (6) COMMENTARY


A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment or sexual misconduct and must require the same standard of conduct of others subject to the judge's direction and control. Sexual harassment or sexual misconduct by a judge while engaging in judicial or administrative responsibilities or any law-related functions undermines the confidence in the legal profession and the legal system and, as a result, is prejudicial to the administration of justice. Sexual harassment or sexual misconduct includes unwelcome sexual advances, requests for sexual favors, and other objectively offensive verbal or physical conduct or communications sexual in nature.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

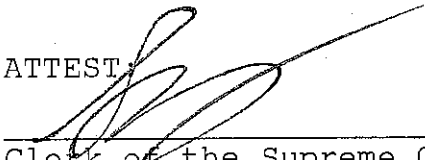
IT IS FURTHER ORDERED that this rule shall become effective February 1, 2022.

DATED at Pierre, South Dakota, this 5th day of January, 2022.

BY THE COURT:

  
Steven R. Jensen, Chief Justice

ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

STATE OF SOUTH DAKOTA  
In the Supreme Court  
I, Shirley A. Jameson-Fergal, Clerk of the Supreme Court of  
South Dakota, hereby certify that the within instrument is a true  
and correct copy of the original thereof as the same appears  
on record in my office. In witness whereof, I have hereunto set  
my hand and affixed the seal of said court at Pierre, S.D. this  
5 day of Jan, 2022

*Shirley A. Jameson-Fergal*  
Clerk of Supreme Court

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN -5 2022

*Shirley A. Jameson-Fergal*  
Clerk

\* \* \* \*

IN THE MATTER OF THE ADOPTION )  
TO MANDATE SEXUAL HARASSMENT )  
PREVENTION TRAINING FOR JUDGES )  
TO BE ADDED TO A NEW SECTION )  
OF SDCL CHAPTER 16-14 JUDICIAL )  
CONFERENCE )

RULE 22-05

-----  
A hearing was held on November 9, 2021, at Pierre,  
South Dakota, relating to mandating sexual harassment prevention  
training for judges to be added to a new section to SDCL Chapter  
16-14, Judicial Conference and the Court having considered the  
proposed adoption, oral presentation relating thereto and being  
fully advised in the premises, now, therefore, it is

ORDERED that the adoption to mandate sexual harassment  
prevention training for judges to be added to a new section to  
SDCL Chapter 16-14 Judicial Conference be hereby adopted to read  
in its entirety as follows:

**Sexual Harassment Prevention Training for Judges.**

Every judge or retired judge acting pursuant to an  
appointment by the Chief Justice shall complete sexual harassment  
prevention training offered by the Unified Judicial System or  
approved by the Chief Justice within two years after the enactment  
of this rule or after beginning judicial service and at least once  
every three years thereafter. Completion of sexual harassment  
prevention training approved by the State Bar will meet the  
requirements of this rule. Failure to complete such required  
training may be grounds for disciplinary action.

IT IS FURTHER ORDERED that this rule shall become  
effective February 1, 2022.

DATED at Pierre, South Dakota, this 5th day of January,  
2022.

BY THE COURT:

*Steven R. Jensen*  
Steven R. Jensen, Chief Justice

ATTEST:

*Shirley A. Jameson-Fergal*  
Clerk of the Supreme Court  
(SEAL)



STATE OF SOUTH DAKOTA

in the Supreme Court

I, Shirley A. Jameson-Fergal, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

5 day of Jan, 2022

*Shirley A. Jameson-Fergal*  
Clerk of Supreme Court

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

6N THE SUPREME COURT  
OF THE

JAN -5 2022

STATE OF SOUTH DAKOTA

*Shirley A. Jameson-Fergal*  
Clerk

\* \* \* \*

IN THE MATTER OF THE ADOPTION ) RULE 22-06  
TO MANDATE SEXUAL HARASSMENT )  
PREVENTION TRAINING FOR LAWYERS )  
TO BE ADDED TO A NEW SECTION TO )  
TO SDCL CHAPTER 16-18 POWERS AND )  
DUTIES OF ATTORNEYS )

-----  
A hearing was held on November 9, 2021, at Pierre, South Dakota, relating to mandating sexual harassment prevention training for attorneys to be added to a new section to SDCL Chapter 16-18, powers and duties of attorneys and the Court having considered the proposed adoption, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that the adoption to mandate sexual harassment prevention training for attorneys to be added to a new section to SDCL Chapter 16-18, powers and duties of attorneys be hereby adopted to read in its entirety as follows:

**Sexual Harassment Prevention Training for Attorneys.**

Each active member of the State Bar of South Dakota shall complete sexual harassment prevention training offered or approved by the State Bar of South Dakota within two years following admission to the practice of law or within two years after the enactment of this rule, and once every three years thereafter. Failure to complete such required training will result in the member being placed on inactive status and may be grounds for disciplinary action.

IT IS FURTHER ORDERED that this rule shall become effective February 1, 2022.

DATED at Pierre, South Dakota, this 5th day of January, 2022.

BY THE COURT:

*Steven R. Jensen*  
Steven R. Jensen, Chief Justice

ATTEST:

*Shirley A. Jameson-Fergal*  
Clerk of the Supreme Court  
(SEAL)

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA  
\* \* \* \*

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN -5 2022

*Shirley A. Johnson-Legal*  
Clerk

IN THE MATTER OF THE PROPOSED )  
AMENDMENT OF SDCL 15-12-30; )  
 )  
A PROPOSAL TO ADD A NEW SECTION TO )  
SDCL CHAPTER 15-15A UNIFIED JUDICIAL )  
SYSTEM COURT RECORDS RULE; )  
 )  
IN THE MATTER OF THE REVISIONS TO )  
APPENDIX A TO CHAPTER 25-4A SOUTH )  
DAKOTA PARENTING GUIDELINES; )  
 )  
IN THE MATTER OF THE ADOPTION OF A )  
NEW RULE RELATING TO A COURT-APPROVED )  
PARENTING EDUCATION FOR ACTIONS )  
INVOLVING ISSUES OF CHILD CUSTODY OR )  
VISITATION. )  
 )

NOTICE OF SPECIAL  
RULES HEARING

NO. 147

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Petitions for amendments of existing sections of the South  
Dakota Codified Laws and adoptions of new rules having been filed  
with the Court, and the Court having determined that the proposed  
amendments and adoptions should be noticed for hearing, now  
therefore,

NOTICE IS HEREBY GIVEN THAT ON February 15, 2022, at  
11:00 A.M., C.S.T., at the Courtroom of the Supreme Court in the  
Capitol Building, Pierre, South Dakota, the Court will consider  
the following:

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1. Proposed Amendment to update the language of SDCL  
15-12-30 relating to the clerk of court's process for the filing of  
an affidavit for a change of circuit or magistrate judge.

**SDCL 15-12-30. Filing of affidavit-Number of copies-  
Statement by clerk of courts.**

Section 1. That 15-12-30 be amended as follows:

The affidavit for change of circuit judge or magistrate shall be filed with the clerk of the circuit court of the county in which the action is pending. The clerk shall deliver a copy of such affidavit to the presiding judge of the circuit. ~~Unless the presiding judge of the circuit court involved has otherwise provided by order or rule to the contrary, the clerk shall forthwith prepare and cause to be delivered to the presiding judge of his circuit a statement complying with subdivision 15-12-34(3) together with a copy of such affidavit.~~ Such clerk shall also forthwith deliver a copy of such affidavit to the judge or magistrate referred to in said affidavit.

Explanation for Proposal

The proposal by the State Court Administrator's Office is intended to reflect the current process by removing the language requiring a statement to be prepared as the information contained in the statement as required by SDCL 15-12-34 is available to the Court electronically in the case management system. This proposal is not based on any other state or federal law.

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**2. A proposed rule to make court security information non-public unless otherwise ordered by the court. That a NEW SECTION be added to SDCL Chapter 15-15A, Unified Judicial System Court Records Rule, to read as follows:**

Section 1.

Any information maintained by the Unified Judicial System for safeguarding and enhancing court security is not accessible to the public unless authorized by an order of the court. This includes information pertaining to the protection of the public, court staff and public property such as:

- a. Any vulnerability or threat assessments;
- b. Response plans intended to prevent or mitigate criminal acts;
- c. Emergency management or response protocols or standards;
- d. Training materials or after-action reports for courthouse security training and assessment;

- e. Intelligence information, complaints, and incident or threat reporting forms; and
- f. Security manuals, standards, procedures, policies, or plans.

Explanation for Proposal

The proposal by the UJS Court Security Committee is intended to ensure that security related information and materials are treated as non-public information to protect the public, court staff and those engaged in business with the courts. Having that information in the public sphere could compromise court security.

This proposal is based on SDCL 1-27-1.5 concerning records not subject to public inspection. SDCL ch. 1-27 does not apply to the Unified Judicial System. See *SDCL 1-27-1.12*; *SDCL 1-27-34*.

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3. In the Matter of the Revisions to Appendix A to  
CHAPTER 25-4A South Dakota Parenting Guidelines.

# SUPREME COURT COMMISSION ON PARENTING TIME GUIDELINES

FINAL REPORT



## INTRODUCTION

On August 26, 2020, the South Dakota Supreme Court entered an order creating the Commission on Parenting Time Guidelines. Commencing in 2021, the commission shall review the standard parenting guidelines outlined in SDCL 25-4A-10 every four years and shall report its findings and recommendations to the Supreme Court, Governor and the Legislature. The Commission is to be composed of seven members:

1. A member of the South Dakota Judiciary;
2. A member in good standing of the South Dakota State Bar;
3. A professional in the field of childhood development;
4. Non-custodial parent;
5. Custodial parent;
6. State Representative; and
7. State Senator.

## MEMBERSHIP

The 2021 Commission on Parenting Time Guidelines consisted of the following members:

Honorable Christina Klinger, Circuit Court Judge, Pierre (Chair)  
Senator Timothy Johns, State Senator, Lead  
Representative Tom Pischke, State Representative, Dell Rapids  
Shanna Moke, Childhood Development Professional, Sioux Falls  
Kylie Riggins, Family Law Attorney, Rapid City  
Billi Derudder, Custodial Parent, Rapid City  
Michael Roselles, Non-Custodial Parent, Rapid City

## MEETINGS / PUBLIC HEARINGS

Formal meetings for the Commission took place on the following dates:

March 18, 2021, via Zoom – Kickoff Meeting;  
May 10, 2021, UJS Conference Room – Capitol Building, Pierre, SD; and  
September 9, 2021, Room 412 – Capitol Building, Pierre, SD.

Additionally, as required, three separate public hearings were also held from 6:00 pm – 8:00 pm on the following dates:

Sioux Falls – June 14, 2021 at Ramkota Hotel  
Rapid City – July 1, 2021 at Hotel Alex Johnson  
Aberdeen – August 23, 2021 at Ramkota Hotel

Many concerns and suggestions were presented by the public at the public hearings and in written correspondence to the Commission. The following is a sample of some of the concerns but is not intended to be an exhaustive list.

1. **Elimination of the labels of “non-custodial” and “custodial” parents.** Many find this offensive and feel there is a negative connotation associated with “non-custodial.” They would like to simply be referred to as parents.
2. The language within the Guidelines needs to be more assertive to provide adequate direction to parents – **replace “should” with “shall” or “must.”**
3. Enforcement of the Guidelines is difficult. Would like to see enforcement statutes similar to those regarding child support.
4. Clarify that the Guidelines must be followed unless otherwise ordered by a Court.
5. Include the process for objecting to the Guidelines.
6. **These Guidelines are not viewed as a “minimum” by Judges** – they are generally followed by the Courts when the parties cannot agree otherwise. Once implemented, it is difficult to increase parenting time beyond these Guidelines.
7. The minimum should be joint physical custody or shared parenting. The alternating weekend schedule **was first established in the 1960’s and continues 60 years later. Regardless of what kind of parent you were / are, you got alternating weekends with your children.**
8. Different shared parenting schedules should be included to give parents an idea of how time can be split.
9. The process for relocation and objection to relocation should be included in the Guidelines.
10. The parenting time granted to a parent is also time for his/her family to visit with the children.
11. Requests for holiday chart that is clear and easy to follow.
12. Include all holidays in a holiday chart.
13. Every other weekend is not adequate parenting time. Would like to extend the weekends to include pick up on Fridays at school and drop off at school on Mondays.
14. Minimize interactions / communications between the parents.
15. **The section regarding “Special Circumstances” should be more concise, better defined and applicable to both parents not just the non-custodial parent. Include language that if a “special circumstance” exists, an individual parenting plan needs to be established.** Also include information regarding this process.
16. Parents should not be allowed to monitor communications between the other parent and children.
17. One parent should not be allowed to unilaterally reduce future parenting time if the other parent is late in dropping the child off.
18. Include a provision setting forth that military deployments shall not be used against the parent being deployed.
19. A reference to mediation should be included so parents understand this is an option.
20. Mediation should be required before a parent can file a motion to modify parenting time. The process regarding mediation should be clearly stated.

21. Midweek visit on Wednesdays should be an overnight. With activities after school, travel time, **homework and supper, there's not enough time to visit with the child.**
22. Parents need to be on the same page when it comes to placing the children in activities.
23. If one parent puts a child in an activity during the other parent's parenting time, that time should be required to be made up.
24. It is not clear how time should be made up when parenting time cannot be exercised due to an illness or weather.
25. There should be additional time granted for parenting time when a child is in the 0-5 age range. Data does not support that children from birth to 3 years will be harmed by having the same number of overnights with each parent.
26. Include more educational information regarding the importance of civility and co-parenting between parents, positive communication and involvement of both parents in the lives of their children.
27. Teens and mature children should be allowed to state their preferences of which parent they want to be with before age 18.
28. Request to include electronic communication with their children when they are with the other parent; i.e. FaceTime, Zoom. Concerns expressed regarding alienation of affection and the request to implement statutes prohibiting this from occurring.

## COMMISSION FINDINGS

The Commission conducted the public hearings, consulted with experts, reviewed current research and materials presented on the subject matter and reviewed parenting guidelines from other jurisdictions. In working through this process, it became evident that the parenting time guidelines should be revised to provide more clarity to the parents of minor children who are navigating separation or divorce. The more clarity that is granted, the potential for conflict is reduced.

- \* The Guidelines are not intended to serve as a substitute for the advice of competent licensed professionals.
- \* Previously, a formal process by which the Parenting Time Guidelines would be modified did not exist.
- \* The Guidelines are designed to assist parents in the development of their own parenting plans. In the event the parties cannot create their own parenting time agreement, these guidelines represent the minimum time a parent should have to maintain meaningful and continuing contact with a child.
- \* Having consistent schedules regarding parenting time is generally in the best interests of children.
- \* It is impossible to address every individual situation and resolve the same in the Guidelines. They are designed to address the most common circumstances.



## RECOMMENDATIONS

The Commission recommends that the South Dakota Supreme Court adopt the attached South Dakota Parenting Guidelines. The proposed changes to the Guidelines are substantial and can be characterized as a rewrite. The use of track changes made the entire document difficult to read. Therefore, a summary of the changes follows:

- Reorganization of the document with the distribution of parenting time appearing first;
- **Removing the terms “noncustodial,” “custodial” and “visitation”;**
- **Using more clear and concise language to ideally minimize the opportunities to “interpret” the intention;**
- Increasing alternating weekends to begin at the time school is recessed for the day and concluding when the child is delivered to school;
- Increasing the mid-week parenting time for kids over the age of 5 to start after school and conclude the next morning when returned to school;
- Including holiday calendars with specific times identified;
- Clarifying that the Guidelines are not intended to address shared parenting or other specific circumstances; and
- Identifying process and forms associated with enforcement of the Guidelines.

Based on public feedback, the Commission recommends that a training be offered to circuit court judges regarding family law and the effect these situations can have on the parties and their children as well as the implementation and enforcement of parenting time guidelines.

## SOUTH DAKOTA PARENTING GUIDELINES



Prepared by the 2021 South Dakota  
Commission on Parenting Guidelines

**The South Dakota Parenting Guidelines are located on the  
South Dakota Legal Self-Help Center found at [www.ujslawhelp.sd.gov](http://www.ujslawhelp.sd.gov)**

**For more information, contact:**

South Dakota Unified Judicial System  
State Court Administrator's Office  
500 E. Capitol Avenue  
Pierre, SD 57501  
605-773-3474

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## SOUTH DAKOTA PARENTING GUIDELINES

### **Enforcement.**

These Guidelines are required to be served with the Summons and Complaint in a divorce, paternity action or any other custody action or proceeding. See <https://ujslawhelp.sd.gov/onlineforms.aspx> under divorce or paternity actions for instructions on how to initiate an action (service of summons).

If the parents are able to agree to a schedule other than the guidelines, these Guidelines should be used as a *minimum* direction in creating the parenting time plan. Parents should agree to parenting times that they find reasonable and in the best interest of their children and the Parenting Guidelines are not intended to prevent such agreements.

**If the parents are unable to agree on a parenting plan, these Guidelines become mandatory as the parenting plan and are enforceable as a court order upon initiation of a divorce or court action involving custody.** SDCL 25-4A-11. If you disagree with the use of these Guidelines as your parenting time plan, either parent has the right to object. Your written objection shall be filed with the Clerk. After it is filed, a hearing will be held and the Judge will determine your parenting time schedule. Instructions and this objection form can be found at <https://ujslawhelp.sd.gov/defendants.aspx>.

Instructions and forms regarding enforcement can be found at <https://ujslawhelp.sd.gov/enforcement.aspx>.

### **Guideline 1. For Parents Who Have Children Under Age 5.**

#### **1.1. Children Under Age 5 Generally.**

- O Newborns (birth to 3 months) and infants (3 – 6 months) have a great need for continuous contact with their primary caregiver, but also frequent contact with both parents who provide a sense of security, nurturing and predictability.
- O Generally, overnights for very young children is not recommended unless the parents are both very closely attached to the children, are able to personally provide primary care, the children are adaptable, and the parents are cooperative.
- O Older children are able to tolerate more and longer separations from one parent or the other.

The following Guidelines for children under age 5 are designed to take into account childhood developmental milestones. Since children mature at different rates, these may need to be adjusted to fit the children's individual circumstances.

**1.2. Birth until 3 Months.** Three, 2-hour parenting time periods per week and one weekend parenting time period for 6 hours. In situations where both parents have been engaged in an ongoing caregiving

## SOUTH DAKOTA PARENTING GUIDELINES

routine with a nursing child, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the child and maintain stability for the child. If applicable, breastfeeding shall be accommodated, but the parents must cooperate in working out alternatives. See 1.8 below.

**1.3. 3 – 6 Months.** Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting plans are recommended:

- (1) Three, 3-hour custodial periods per week and one weekend day for 6 hours. If applicable, breast feeding shall be accommodated but the parents must cooperate in working out alternatives; or
- (2) Three, 3-hour custodial periods per week and one overnight on a weekend not to exceed 18 hours, if the parent is capable of personally providing primary care. See exceptions in Section 1.8 below; or
- (3) In situations where both parents have been engaged in an ongoing caregiving routine with a child, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

**1.4. 6 – 12 Months.** Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting times are recommended:

- (1) Three, 4-hour parenting time periods per week and one weekend day for 6 hours; or
- (2) Three, 4-hour parenting time periods per week and one overnight on a weekend not to exceed 18 hours, if the child is not breastfeeding and the parent is capable of personally providing primary care; or
- (3) Children spend time in alternate homes, but spends significantly more time in one parent's home and no more than 1-2 overnights spaced regularly throughout the week at the other parent's home; or
- (4) In situations where both parents have been engaged in an ongoing caregiving routine with a child, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

**1.5. 12 – 36 Months.** Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting times are recommended:

- (1) Three, 8-hour parenting time periods per week on a predictable schedule; or
- (2) Three, 8-hour parenting time periods per week on a predictable schedule and one overnight per week not to exceed 18 hours; or



## SOUTH DAKOTA PARENTING GUIDELINES

- (3) Children spends time in alternate homes, but with significantly more time in one parent's home with 1-2 overnights spaced regularly throughout the week. This arrangement requires adaptable children; or
- (4) In situations where both parents have been engaged in an ongoing caregiving routine with the children (nursing or otherwise), overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

**1.6. 3 Years – 5 Years.** Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting times are recommended:

- (1) One overnight parenting time period not to exceed 24 hours and two additional 8-hour parenting time periods each week, separate from the overnight, with the children returning to the other parent's home at least 1 hour before bedtime; or
- (2) Two to three overnights at one home, spaced throughout the week, the remaining time at the other parent's home. This arrangement requires adaptable children; or
- (3) In situations where both parents have been engaged in an ongoing caregiving routine with the children, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

If the parents cannot agree on which provision shall apply in sections 1.2 through 1.6, the parties shall use option 1 until further order of the court. Absent special circumstances as determined by the court, parenting time shall not decrease from one age category to the next.

**1.7. Children in Day Care.** In families where children are in day care before and/or after parental separation, the children may be able to tolerate more time with each parent earlier than their specific age group indicates above because the children are accustomed to separations from both parents.

**1.8. Breastfeeding Children.** – Parents must be sensitive to the special needs of breastfeeding children. Children's basic sleeping, feeding, and waking cycles should be maintained to limit disruption in the children's routine. Forcibly changing these routines due to the upheaval of parental disagreement is detrimental to the physical health and emotional well-being of the children. On the other hand, it is important that the children be able to bond with both parents.

- a. For children being exclusively breastfed, the nursing child can still have frequent parenting time with the other parent. The amount of time will be guided by/subject to the infant's feeding schedule, progressing to more time as the child grows older. Both parents should be mindful that a feeding may occur, and the child may return to time with the other parent after the feeding.

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- b. Where both parents have been engaged in an ongoing caregiving routine with a nursing child, the same caregiving arrangement should be continued as much as possible to maintain stability for the children.
- c. If the other parent has been caring for the children overnight or for twenty-four hour periods while the nursing mother sleeps or works, that arrangement should/shall continue.
- d. A mother may not use breastfeeding to deprive the other parent of time with the children. If, for example, a nursing mother uses day care or a babysitter for the children, the same accommodations (i.e., bottle feeding with breast milk or formula, or increased time between breast feeding sessions) used with the day care provider or babysitter will be used with the other parent, if the other parent is capable of personally providing the same caregiving.

**1.9. Holidays.** For children aged 0-5 years, when the parents live and/or celebrate the holiday in the same or a nearby community, the parents shall alternate the following holidays in the chart below. Prior to a child's 5th birthday, holiday parenting time shall not exceed the longest period of parenting time currently being exercised and shall be scheduled by the parent exercising holiday time. If the parents cannot otherwise agree, the holiday time shall be exercised within the time frames provided in the chart below not to exceed the longest period of parenting time currently being exercised. It is recommended that the parents communicate two weeks in advance about who is exercising what time period for the holidays set forth below. Parenting time, however, shall not be withheld solely for failure to abide by this two-week recommendation.

Holiday	Details	Even-Numbered Years	Odd-Numbered Years
Martin Luther King, Jr. Day weekend	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
President's Day weekend	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 1	Parent 2
Easter weekend	8:00 a.m. Friday – 8:00 a.m. Monday	Parent 2	Parent 1
Mother's Day	8:00 a.m. – 8:00 a.m. the following day	Parent 1	Parent 1
Memorial Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
Juneteenth (6/19)	8:00 a.m. – 8:00 a.m. the following day	Parent 1	Parent 2
Father's Day	8:00 a.m. – 8:00 a.m. the following day	Parent 2	Parent 2
4 <sup>th</sup> of July	5:00 p.m. July 3rd – 5:00 p.m. July 5th	Parent 1	Parent 2
Labor Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 1	Parent 2
Native American Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
Halloween	3:00 p.m. – 8:00 p.m.	Parent 1	Parent 2
Thanksgiving	8:00 a.m. Thursday – 5:00 p.m. Sunday	Parent 2	Parent 1



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Christmas Eve	8:00 a.m. Christmas Eve – 8:00 a.m. Christmas Day	Parent 2	Parent 1
Christmas Day	8:00 a.m. Christmas Day – 8:00 a.m. December 26th	Parent 1	Parent 2
Child's Birthday	Ages 0-3 = 4 hours Ages 3-5 = 8 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before)	Parent 2	Parent 1
Parent 2's Birthday	Ages 0-3 = 4 hours Ages 3-5 = 8 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before)	Parent 2	Parent 2
Parent 1's Birthday	Ages 0-3 = 4 hours Ages 3-5 = 8 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before)	Parent 1	Parent 1

**1.10. Vacation With Children 3 – 5 Years Old.** Upon 30 days advance written notice (by mail, email or text message), each parent is entitled to two separate periods of uninterrupted time for up to 5 days each with their children each year, not to conflict with the other parent's holiday parenting time. Parents are encouraged to coordinate vacation plans. The parents shall consider extending the 5 day time periods to 7 days if the children are adaptable and accustomed to spending time with both parents.

**1.11. Long-Distance Parenting.** When substantial distance between the parents exists, the ability to exercise these Guidelines is compromised. The parents will need to create a developmentally appropriate parenting plan for their unique situation. When parenting time is unable to be frequent, parents are encouraged to use video/audio contact to build and/or maintain the bond between the children and parent who lives afar.

### Guideline 2. For Parents Who Have Children Age 5 and Older And Reside No More Than 200 Miles Apart.

**2.1. Weekends.** In most cases, it is a positive experience for the children to have both parents involved in taking the children to and from school. Parenting time shall consist of alternate weekends starting Friday upon the release of school or 3:15 p.m., whichever is applicable, and continuing until the return to school Monday or 8:00 a.m., whichever is applicable. Parenting time shall be an equivalent period of time if a parent is unavailable on weekends and the children do not miss school.

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**2.2. Mid-Week.** If time and distance allow, parenting time shall include one mid-week overnight every week, in addition to the weekends in 2.1 above, with the children. If the parents cannot otherwise agree, this mid-week time shall be on Wednesdays and shall start when the children are released from school or at 3:15 p.m., whichever is applicable, and concludes when the children are returned to school the next day or at 8:00 a.m., whichever is applicable. All transportation for the midweek parenting time is the responsibility of the parent exercising the parenting time.

**2.3. Summer Break.** The children shall be with each parent for one-half of the school summer break. Summer break begins the day after school is released and ends the day before school commences. The parent with whom the children reside the majority of the time during the school year has priority to have the children the week before school resumes, which counts as part of that parent's summer break. At the option of the other parent, his/her parenting time during summer break may be consecutive or it may be split into 2 or more blocks of time. This parent shall provide a minimum of 30 days advance notice of the dates selected.

If the children go to summer school and it is impossible for a parent to schedule time other than during summer school, the parent may elect to take the time when the children are in summer school and transport the children to the summer school sessions at the children's school or an equivalent summer school session in that parent's community.

The parent with whom the children reside for the majority of the school year shall have the weekend before the beginning and the weekend after the end of the other parent's summer period, regardless of whose weekend it may be. This weekend time will not be made up.

During any summer vacation parenting times of three or more consecutive weeks, the parent exercising parenting time shall arrange for a mutually convenient 48-hour continuous period of time for the other parent to spend with the children.

**2.4. Holidays.** The following chart shows the allocation of the holidays between parents. School breaks and release times may be different from school to school and district to district. The school calendar is published on your children's school's website before each school year starts. It is important to know these dates / times as they pertain to your children.

Holiday / Special Event	Details / Times	Even-Numbered Years	Odd-Numbered Years
Martin Luther King Jr. Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 2	Parent 1
President's Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 1	Parent 2



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Easter weekend	Starts when school is released for the holiday weekend and ends at 8:00 a.m. on the day school recommences after the holiday weekend.	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	Starts when school is released for Spring Break and ends at 8:00 a.m. on the day school begins after the break. If a spring break is not granted by the school, this provision would not apply. Also, if the spring break is combined with Easter, this provision would not apply.	Parent 1	Parent 2
Mother's Day	Starts at 8:00 a.m. on Mother's Day and ends at 8:00 a.m. on Monday; one overnight.	Parent 1	Parent 1
Memorial Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable, and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 2	Parent 1
Juneteenth	Starts at 8:00 a.m. on 6/19 and ends at 8:00 a.m. on 6/20	Parent 1	Parent 2
Father's Day	Starts at 8:00 a.m. on Father's Day and ends at 8:00 a.m. on Monday; one overnight.	Parent 2	Parent 2
4 <sup>th</sup> of July	Begins July 3 at 5:00 p.m. and ends July 5 at 5:00 p.m.	Parent 1	Parent 2
Labor Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable, and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 1	Parent 2
Native American Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable, and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 2	Parent 1
Halloween	Starts on 10/31 when school releases for the day or 3:15 p.m., whichever is applicable, and concludes on 11/01 when school resumes or at 8:00 a.m., whichever is applicable.	Parent 1	Parent 2
Thanksgiving weekend	Starts when school releases on Wednesday or 3:15 p.m., whichever is applicable, and ends Monday at 8:00 a.m.	Parent 2	Parent 1
Christmas Eve	Starts on 12/23 at 8:00 a.m. and concludes on 12/25 at 8:00 a.m.	Parent 2	Parent 1
Christmas Day	Starts on 12/25 at 8:00 a.m. and concludes on 12/27 at 8:00 a.m.	Parent 1	Parent 2
1 <sup>st</sup> half of winter break	The winter break starts when the day the children are released from school for the break and continues to the morning of the day the children return to school. The 48-hour parenting times for each Christmas Eve and Christmas Day are not included in the division of the winter break.	Parent 1	Parent 2
2 <sup>nd</sup> half of winter break, including New Year's holiday	The winter break starts when the day the children are released from school for the break and continues to the morning of the day the children return to school. The 48-hour parenting times for each Christmas Eve and Christmas Day are not included in the division of the winter break.	Parent 2	Parent 1

## SOUTH DAKOTA PARENTING GUIDELINES

Children's Birthdays	Starts 8:00 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before); parenting time shall be with all of the children not just the one who has the birthday.	Parent 2	Parent 1
Parent 2's Birthday	Starts 8:00 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before).	Parent 2	Parent 2
Parent 1's Birthday	Starts 8:00 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before).	Parent 1	Parent 1

**2.5. Conflicts Between Regular and Holiday Weekends.** When there is a conflict between a holiday weekend and the regularly scheduled weekend time, the holiday takes precedence. Unless mutually agreed in writing, there will be no makeup parenting time in conflicts between holiday weekend and the regularly scheduled weekend time. This may result in one parent having the children for three weekends in a row; however, neither parent shall have the children for more than 3 weekends in a row.

**2.6. Parent's Vacation with Children Age 5 and Older.** Each parent is entitled to a vacation with the children totaling up to 14 days, with 7 days being the most that may be exercised at one time. When possible, each parent shall provide the other with 30 days advance notice of their intent to utilize their vacation time. Parents are encouraged to coordinate vacation plans. In the event there is a dispute, the mother gets priority in choosing her vacation periods first in even-numbered years and the father gets priority in choosing his vacation periods first in odd-numbered years.

**2.8. Precedence.** The allocation of holidays listed in the above chart shall take precedence over vacations. In other words, a parent cannot exercise their vacation with the children when it is the other parent's holiday. But vacations shall take precedence over the regular parenting time schedule.

**2.9. Notice of Canceled Time With the Children.** Whenever possible, each parent shall give a minimum of three days' notice of intent not to exercise all or part of the scheduled time with the children. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the explanation, shall be provided to the other parent.

**2.10. Pick Up and Return of Children.** When the parents live in the same area/community, the responsibility for picking up and returning the children shall be shared. The parent who receives the children for his/her parenting time will pick the children up from the other parent. Both parents have an obligation to be punctual and to arrive at the agreed upon time, not substantially earlier or later. Repeated, unjustified violations of this provision may subject the offender to court sanctions.



## SOUTH DAKOTA PARENTING GUIDELINES

### **Guideline 3. For Parents Who Have Children Age 5 and Older and Reside More Than 200 Miles Apart.**

**3.1. Holidays.** Parents who reside more than 200 miles apart shall exercise the following holidays as follows:

Holiday	Details	Even-Numbered Years	Odd-Numbered Years
Easter weekend	Starts when school is released for the holiday weekend and ends at 8:00 a.m. on the day school recommences after the holiday weekend.	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	Starts when school is released for Spring Break and ends at 8:00 a.m. on the day school begins after the break. If a spring break is not granted by the school, this provision would not apply. Also, if the spring break is combined with Easter, this provision would not apply.	Parent 1	Parent 2
Thanksgiving	Starts when school releases on Wednesday or 3:15 p.m., whichever is applicable, and ends Monday at 8:00 a.m.	Parent 2	Parent 1
Winter Break	The winter break starts when the day the children are released from school for the break and continues to the morning of the day the children return to school.	Parent 1	Parent 2

**3.2. Summer Break.** The parent with whom the children do not reside during the school year shall have the children for the children's summer break as follows: summer break begins 3 days after school is released and ends 7 days before school recommences. This allows 10 days of parenting time during the summer with the parent with whom the children reside during the school year. Additionally, the parent with whom the children reside during the school year shall be entitled to exercise a 48 hour period of parenting time with the children every three weeks during the summer break; to be exercised at the sole expense of the parent with whom the children reside during the school year.

**3.3. Priority of Summer Time With Parent.** Parenting time in the summer with the parent who lives more than 200 miles away takes precedence over summer activities (such as sports) when the parent's time cannot be reasonably scheduled around such events. Even so, the conscientious parent will often be able to enroll the children in a similar activity in the parent's community. When each child reaches an age and maturity where activities are very important to them, the parents should reach an agreement that works best for the child.

**3.4. Notice.** At least sixty (60) days' notice (recommended to be by mail, email, or text message) shall be given by the parent who lives more than 200 miles away from the children of the date for commencing extended summer parenting time with the children so that the most efficient means of transportation may be obtained and the parents and the children may arrange their schedules. Failure to

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## SOUTH DAKOTA PARENTING GUIDELINES

give the precise number of days' notice does not entitle the parent with primary residence of the children the right to deny the other parent parenting time with the children.

**3.5. Additional Time With the Parent Who Lives More Than 200 Miles Away.** The parent who resides more than 200 miles away from the children shall have the following parenting time:

- o If the parent who lives more than 200 miles away wants to travel, at his/her sole expense, to visit with his/her children, this parenting time shall be accommodated for a reasonable time period of no less than 48 hours. However, this is not intended to be exercised more than every other weekend;
- o Where distance and finances permit, additional parenting time for the parent residing more than 200 miles away from the children, such as holiday weekends or special events, is encouraged. Parents are encouraged to reference the holiday schedules set forth in Section 2.4 when determining the allocation and duration of other holidays; and
- o When the parent who lives 200 miles away is in the area where the children reside, or the children are in the area where this parent resides, liberal time with the children based on the circumstances must be allowed. Circumstances will vary and may only allow for a quick visit or may allow for overnight parenting time.

The children may miss some school to spend time with the parent who lives 200 miles away, so long as it does not substantially impair the children's academic progress. However, additional time with the parent who lives more than 200 miles away from the child shall not interfere with the alternating holiday schedule set forth in Section 3.1 herein.

Parents are encouraged to communicate with each other and cooperate in creating additional parenting times for the children. If the additional parenting time exceeds 4 hours, the parent who lives more than 200 miles away shall provide as much advance notice as possible, preferably 30 days. Failure to provide notice shall not be the sole reason for denial of additional parenting time.

### **Guideline 4. General Rules Applicable to All Parents**

**4.1. Rules of Conduct.** A parent shall always avoid speaking negatively about the other parent and must firmly discourage such conduct by relatives or friends. Each parent should speak in positive terms about the other parent in the presence of the children. Each parent shall encourage the children to respect the other parent. Children should never be used by one parent to spy or report on the other parent.

**4.2. Relatives.** Children will usually benefit from continued contact with all relatives on both sides of the family. Such relationships should be protected and encouraged. But relatives, like parents, need to avoid being critical of either parent in front of the children. Parents should have their children maintain ties with both the maternal and paternal relatives. Usually the children will visit the paternal relatives



## SOUTH DAKOTA PARENTING GUIDELINES

during times when the children are with their father and the maternal relatives during times when they are with their mother. This may include allowing the children to spend time with these relatives even when the parent is not present.

**4.3. Relocation.** Relocation is governed by South Dakota state law. See SDCL 25-4A-17. Instructions and forms on how to comply with the requirements surrounding relocation, as well as how to object to a parent's notice of relocation, can be found at [www.ujslawhelp.sd.gov](http://www.ujslawhelp.sd.gov).

**4.4. Communication between Parents.** Parents must always keep each other advised of their home and work addresses and telephone numbers. Whenever possible and unless otherwise stated herein, all communication concerning the children must be conducted directly between the parents (i.e., in person, by telephone, email, text message, communication notebook, a designated third party or co-parenting tool). Absent an emergency, communication should not occur at a parent's place of employment.

**4.5. School and Medical Information.** Both parents shall keep the other parent informed with the name, address and telephone number of the school where each of their children attends and each parent is authorized to communicate concerning the children directly with the school and with the children's doctors and other professionals, outside the presence of the other parent. Each parent has an obligation to contact the school to ensure receipt of class schedules, school report cards, notices, etc. so that they can remain involved with their children's education. Both parents shall be listed as a parent and emergency contact on all of the children's records, forms, registrations, etc. Attendance at academic or disciplinary meetings pertaining to the minor children shall be limited to the parents and the respective school professional(s). Others may not attend such meetings without advance mutual parental agreement or court order.

Each parent shall immediately notify the other parent of any medical emergencies or serious illnesses of the children. Access to records and information pertaining to minor children, including, but not limited to, medical, dental, therapy, counseling, orthodontia and similar health care and school records must be made equally available to both parents. The parents must make reasonable efforts to ensure that the name and address of the other parent is listed on all such records. If children are taking medications, both parents shall have access to a sufficient amount for their parenting time as well as the instructions.

The parent who has medical insurance coverage on the children shall supply to the other parent an insurance card or copy thereof and, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing. Except in emergencies, the parent taking the children to a doctor, dentist or other provider not so approved or qualified may be required to pay the additional cost for that provider. However, when there is a change in insurance, which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration shall be given by the parents to what is more important, i.e., allowing the child to remain with the original provider or the economic consequences of changing carriers. When there is an obligation to pay medical expenses, the parent responsible for paying shall be promptly furnished with the bill, and where applicable, the explanation of benefits, by the other parent. The parents shall

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cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements unless previously paid by the other parent. Insurance refunds shall be promptly turned over to the parent who paid the bill for which the refund was received.

**4.6. Extracurricular Activities.** Both parents shall consult the other parent prior to enrolling the children in any event that may affect the other parent's parenting time. Both parents shall be listed as a parent and emergency contact on all of the children's records, forms, registrations, etc. Both parents shall be provided access to the name of the coach, director, and organization providing the activity for each child along with their contact information. Both parents shall have the obligation to contact the activity director to ensure receipt of information such as practice schedules, games, parental participation, etc.

**4.7. Clothing.** In situations where the children reside primarily with one parent, that parent shall send an appropriate supply of children's clothing with the children for the other parent's parenting time. At the conclusion of his/her parenting time, this clothing shall be returned clean (when reasonably possible). Parents must advise, as far in advance as possible, of any special activities so that appropriate clothing for the children may be sent. It is recommended that both parents have some basic clothing available in their home to ensure that all of the children's basic needs are met.

**4.8. Withholding Support or Time with the Children.** Neither time with the children nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. Children generally have a right both to support and, time with both parents, neither of which is dependent upon the other. In other words, if the parent ordered to pay child support fails to do so, he/she is still entitled to their parenting time. Likewise, if one parent denies the other parent parenting time, child support payments must still be made.

**Forms and instructions on how to enforce your parenting time can be found on the South Dakota Legal Self-Help Center at <https://ujslawhelp.sd.gov/onlineforms.aspx>.**

**4.9. Adjustments in Parenting Plan.** Parents are expected to fairly modify the parenting plan as family necessities, illnesses, weather or commitments reasonably so require. The parents must work together in good faith to get any missed parenting time rescheduled to occur within a reasonable period of time, usually within 30 days. When possible, each parent must timely advise the other when scheduled parenting time with the children cannot be exercised.

**4.10. Children of Different Ages.** It usually makes sense for all the children to share the same schedule of parenting time. Having brothers or sisters along can be an important support for children. Because it is intended that parenting time with the children be a shared experience between siblings and, unless these Guidelines or a court order provides otherwise, all the children shall enjoy parenting time together. Parents shall consider the children's best interests when scheduling parenting time especially for newborns and infants who may have developmental needs that may prevent them from immediately experiencing the same schedule as their older siblings. Additionally, older teenagers' special needs for

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peer involvement and for some control of their own lives may place them on different schedules from their younger brothers and sisters.

**4.11. Communication with Children.** Unless prohibited by a court order, either parent may mail, call, text, email, FaceTime or skype (or use similar technology) to communicate with the children at reasonable times and with reasonable frequency during those periods the children are with the other parent. The children may, of course, mail, call, text, email, FaceTime or skype (or use similar technology) to communicate with either parent, at reasonable hours or with reasonable frequency.

- Parents are cautioned that communication between the parent and the children should not be so excessive as to interfere with the other parent's time, nor used to undermine the other parent's authority.
- During long vacations, the parent with whom the children are on vacation is required to make the children available for telephone calls with the other parent at least every three days.
- At all other times, the parent the children are with must not refuse to answer the other parents telephone calls or turn off their telephone in order to deny the other parent telephone contact.
- If a parent uses an answering machine or cell phone voicemail, messages left should be returned to that person as soon as possible.
- Parents should agree on a specified time for calls to the children so that the children will be made available no less than three days a week.
- Either parent may provide the children with a cell phone subject to each parent's ability to set restrictions in their home. A parent shall not prohibit contact between the children and the other parent; nor shall they impede the children's ability to contact the other parent during reasonable times and at a reasonable frequency.
- Communication between a parent and the children must not be censored, recorded, or monitored, absent a court order.
- Each parent shall have an unrestricted right to send cards, letters and/or packages to their children. The children shall also have the same right to receive and send items to their parents.

**4.12. Social Media.** Each parent shall have full access to monitor the social media accounts of the children, but neither shall open or read communications between the children and the other parent.

**4.13. Privacy of Residence.** A parent shall not enter the residence of the other parent except by express invitation, regardless of whether a parent retains a property interest in the residence. Unless otherwise indicated herein, the children shall be picked up and returned to the front entrance of the other parent's residence. The parent dropping off the children shall not leave until the children are safely inside the other parent's residence. Parents must refrain from surprise visits to the other parent's home.

**4.14. Refusal / Hesitation by Children.** Parents should always encourage the children to attend parenting time with the other parent absent circumstances outlined in the "Scope of Application" provision on page 3. Parents shall not deny parenting time with the other parent solely based on the refusal of the children.

## SOUTH DAKOTA PARENTING GUIDELINES

**4.15. Special Considerations for Adolescents.** While children never get to choose where they live, the parents should honestly and fairly consider their teenager's wishes regarding time with a parent. Neither parent shall attempt to influence their teenager's wishes on parenting time. Teenagers should explain the reason for their wishes directly to the affected parent, without intervention by the other parent.

**4.16. Daycare Providers.** When parents reside in the same community, they should use the same day care provider. To the extent feasible, the parents should rely on each other to care for the children when the other parent is unavailable.

**4.17. Parents in the Armed Services.** When one or both parents are serving in the military, it is important to create a parenting time schedule that focuses on sharing the children when the parents live close to each other and allowing for temporary duty assignment (TDY) possibilities. Military families should also consider what parenting time would look like if TDY's or overseas commitments were engaged requiring one parent to live more than 200 miles from the children. The residential parent shall support the children's relationship with the other parent by having a consistent plan of communication with the military parent.

### **Legal Notice.**

These Guidelines do not provide legal opinions or legal advice and are not intended to serve as a substitute for the advice of licensed, legal professionals.

Laws and interpretations of laws change frequently, and the material contained in these Guidelines have important legal consequences. In using these Guidelines, parents are responsible for determining the applicability of any information contained in this document to their situation and are strongly encouraged to seek professional legal and other expert assistance in resolving their parenting time issues. Parents will often benefit from getting advice from mediators, counselors, therapists, parenting coordinators and lawyers to help them make a parenting time schedule.

### **Definitions.**

Any custody proceeding involving children is going to involve a determination of both legal and physical custody.

"Legal Custody" refers to the legal authority to make major decisions for your children. There are 2 options when it comes to legal custody:

Joint Legal Custody – "[B]oth parents retain full parental rights and responsibilities with respect to their child[ren] and so that both parents must confer on, and participate in, major decisions affecting the welfare of the child[ren]." See SDCL 25-5-7.1.

Sole Legal Custody – one parent shall have the right and responsibility to make the decisions related to health, education and welfare of the children.



## SOUTH DAKOTA PARENTING GUIDELINES

"Physical Custody" refers to how parenting time is divided between 2 parties. Parents may agree on the amount of time the children spend with each parent. If parents do not agree, the parenting time schedule set forth herein shall remain in place until a court orders otherwise.

### **Shared Parenting.**

These Guidelines do not address shared parenting, which is defined as "a detailed shared parenting plan which provides that the children will reside no less than 180 nights per calendar year in each parent's home and that the parents will share the duties and responsibilities of parenting the children and the expenses of the children in proportion to their incomes[.]" SDCL 25-7-6.27. If you are interested in this arrangement, you are strongly encouraged to consult with an attorney of your choosing. More information and sample schedules can be found at <https://ujslawhelp.sd.gov/>.

### **Scope of Application.**

**General.** These Guidelines are applicable to all custody situations, including divorces with minor children, paternity actions and cases involving joint legal custody where one parent has primary physical custody. These Guidelines are not applicable to situations where the court reasonably believes the children's physical health or safety is in danger or the children's emotional development could be significantly impaired. These situations may include, but are not limited to, the following:

- Family Violence (physical, verbal or otherwise);
- Substance Abuse;
- Mental Illness of Parent or Child;
- Risk of Flight with Children;
- Long Interruption of Contact Between Parent and Children;
- A Parent's New Relationship;
- Religious & Cultural Holidays; or
- An Incarcerated Parent.

In such cases one or both parents may have legal, psychological, substance abuse or emotional problems that may need to be addressed before these Guidelines can be used. The type of help that is needed in such cases is beyond the scope of these Guidelines.

A parent who believes one or more of the above situations exists should file an Objection to the Implementation of the South Dakota Parenting Guidelines (UJS Form 372). This form can be found at <https://ujslawhelp.sd.gov/defendants.aspx>. The opposing parent should also file a response to this Objection and should appear at the hearing.

**Existing Parenting Time Orders.** Existing parenting time orders on the date of adoption of these revised Guidelines shall be enforced according to the parenting time guidelines that were in effect on the date the parenting time order was issued. Changes to the South Dakota Parenting Time Guidelines do not alone constitute good cause for modifying an existing parenting time order; however, a court or parties

## SOUTH DAKOTA PARENTING GUIDELINES

to a proceeding may refer to these Guidelines in requesting changes to their parenting time order after the effective date of the Guidelines.

**Protection Orders.** If a protection order has been established regarding the minor children, that order would prevail over these Guidelines, until a court specifically orders otherwise. If an active protection order prohibits contact between the parents or between one parent and the children, parents are cautioned that the parent who is the subject of the protection order will violate the order if he/she has contact with the other parent and makes agreements as suggested in these Guidelines without permission for contact from the court that issued the protection order.

### Additional Resources

There are several resources available to parents who need help in creating, enforcing or improving their parenting plan. Visit <https://ujslawhelp.sd.gov/> (under the "Parenting" tab) for additional information on mediators, parenting coordinators, co-parenting tools and counseling options.

Additional tips that parents should consider in order to keep the children the focus of the parenting time arrangements can be found in Appendix A.

## **Tips to Stay Focused on the Children**

A powerful cause of stress, suffering, and maladjustment in children of divorce or separation is not simply the divorce or separation itself, but rather continuing conflict between their parents before, during and after the divorce and/or separation. To minimize harm to the children, parents must agree on some basic rules to keep the children the focus of their parenting time arrangement.

Parents need to keep in mind that it is generally accepted that in most cases of divorce or separation:

1. Children of separated parents do best in both the short-term and the long-run when they feel loved and cared for by both parents;
2. Children generally do better when both parents have stable and meaningful involvement in their children's lives;
3. The strength of a parent's relationship to a child is affected more by parental commitment, warmth and the ability to meet the child's needs than it is by time spent with the child (i.e. quality vs. quantity);
4. Each parent has different and valuable contributions to make to their children's development;
5. Children should have structured routine time (such as bedtime and doing homework) with each parent, as well as unstructured time (such as playing in the park);
6. Parents should help their children maintain positive existing relationships, routines and activities;
7. Children may find security in personal possessions, like a favorite stuffed animal or blanket. Children should be permitted to bring personal possessions back and forth between homes, regardless of which parent purchased them; and
8. Parenting plans may need to be adjusted over time as the needs and circumstances of parents and children change.

Children are harmed by exposure to conflict between their parents. High conflict between parents increases children's anxiety and negatively impacts healthy child development. The following are guidelines to help you navigate your role in co-parenting your children:

1. Children shall not be put in a position to "choose" between the parents. Children must not be made to feel guilty about having a good time with the other parent;
2. Each parent should strive to show respect for the other parent;
3. Each parent must support the child's relationship with the other parent and encourage them to enjoy themselves with the other parent;

4. Children shall not be expected to communicate messages between parents, regarding parenting time, financial matters or issues about which parents disagree;
5. Parents should exchange the children in a respectful manner;
6. A parent should consider allowing their children to attend important family celebrations and events with both sides of their family, even when the events occur on the other parent's parenting time;
7. Differences between the parent's homes may occur (i.e. daily routines, activities, and diet). Parents should remember these are merely "differences" and are not necessarily a "better" or "worse" practice;
8. Children need consistency in both homes (i.e. bed times, meal times, medications etc.);
9. If one parent has been significantly more involved with the care of the child before separation, that parent may need to help the other parent gain the skills and knowledge to care appropriately for the child and support the development of a positive relationship between the child and the other parent, unless there are legitimate concerns about the other parent's capacity to care for their child. Both parents will need to approach this transition in a cooperative manner.

Parenting plans made for infants and young children may need to change as children get older and start to attend school. Parenting plans designed to accommodate a parent's employment may need to be modified if parents change their employment or work schedule. It is important for parents to communicate effectively, discuss changes that they observe in their children with one another and be prepared to modify the plans consistent with the best interests of the children.

Each family needs to consider the age, temperament, previous caretaking arrangements and the child's relationship with each parent, as well as whether the child has special needs. It is important that parents are able to communicate about their children on a regular basis, whether that communication is written or verbal. Parents shall share information so that a child's experience, as he/she transitions between parents, is as smooth as possible.



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**4. A proposal to require court-approved parenting education for actions involving issues of child custody or visitation.**

The parties to any action which involves the issues of child custody or parenting time will be required to participate in a court-approved course to educate the parties concerning the impact of the action on the child or children. The course shall be completed within sixty days of the service of the summons and complaint, petition or motion in any action involving child custody or parenting time. Participation in the course may only be waived or delayed by the judge presiding over the action for good cause shown. Good cause includes but is not limited to a default by one of the parties or a showing that the parties have previously participated in a court-approved course or its equivalent within the past five years.

Participation in the course is not required for a protection order proceeding or if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be granted or a final order shall not be entered until both parties have complied with this requirement, unless participation in the course is waived or delayed for good cause or is otherwise not required. Each party shall be responsible for arranging their participation in the course and for payment of the costs of participation in the course.

Each party shall submit certification of completion of the course to the court prior to the granting of a final decree or the entry of an order, unless participation in the course is waived or delayed for good cause or is otherwise not required as set forth herein. If participation in the court-approved course is waived or delayed for good cause or is otherwise not required under this section, the judge presiding over the action may order that the parties receive the information in an alternative format.

The State Court Administrator's Office shall certify approved courses for parties required to participate in a course. Approved courses may include those provided by a public or private entity. At a minimum and as appropriate, an approved course shall include information related to the effects of separation or divorce on children, co-parenting skills and responsibilities, children's needs and coping techniques, the options for conflict resolution for parenting time and custodial disputes and the financial responsibilities of parents.

**Explanation for Proposal**

The proposed amendment is offered by the State Court Administrator's Office. The new rule is intended to require parents to attend a parenting class to assist them in navigating their roles as co-parents and to minimize negative effects to the children.

The proposed change is offered pursuant to SDCL 16-3-5.1 and is not based specifically upon any other state or federal rule or statute.

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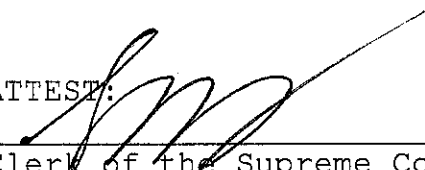
Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments shall be reduced to writing and the original and five copies thereof filed with the Clerk of the Supreme Court no later than February 1, 2022. Subsequent to the hearing, the Court may reject or adopt the proposed amendments or adoption of any rule germane to the subject thereof.

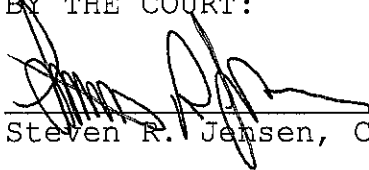
Notice of this hearing shall be made to the members of the State Bar by electronic mail notification, by posting notice at the Unified Judicial System's website at [https://ujls.sd.gov/Supreme Court/Hearings.aspx](https://ujls.sd.gov/Supreme%20Court/Hearings.aspx) or the State Bar of South Dakota's website <https://www.statebarofsouthdakota.com>.

DATED at Pierre, South Dakota this 5th day of January, 2022.

BY THE COURT:

ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

  
Steven R. Jensen, Chief Justice

# *Career Center*

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## **Associate Attorney – Aberdeen**

Bantz, Gosch & Cremer, LLC is seeking an associate attorney, with primary work consisting of general and specialized practice depending on the attorney's experience. Bantz, Gosch & Cremer provides mentorship in all practice areas to facilitate the associate's professional growth. Strong academic background and communication skills required. Compensation depends on experience. The firm offers an excellent benefit plan. Inquiries will be kept confidential. Please send a cover letter and resume describing experience to Bantz, Gosch & Cremer, LLC, PO Box 970, Aberdeen, SD 57402-970 or email to [attorneys@bantzl原因.com](mailto:attorneys@bantzl原因.com).

## **Associate Attorney – Rapid City**

Peebles Kidder Bergin & Robinson LLP is a national law firm dedicated to the representation of American Indian tribes and organizations. We represent tribes and tribal entities in a wide spectrum of services including business transactions, litigation, and governmental affairs in many forums, including state, federal, and tribal courts.

The Rapid City office of Peebles Kidder seeks one Associate Attorney with preferred experience in the areas of contracts, employment law, housing, education, policy drafting, litigation, and tribal governance.

Duties and Responsibilities include (other duties may be assigned):

- Provide counsel and legal services to new and existing clients as well as represent clients in a professional and expedient manner;
- Apply knowledge of legal procedures and previous

cases to effectively counsel clients;

- Conduct legal research by preparing legal memoranda and necessary pleadings required in all aspects of tribal, federal, and state litigation matters;
- Draft agreements and analyze legal documents;
- Comply with all court, state bar and inter-office policies and procedures;
- Conduct legal research and gather evidence; interpret laws, rulings and regulations, analyze probable outcomes of cases using knowledge of legal precedents;
- Apply knowledge of legal procedures and previous cases to effectively counsel clients; present evidence to defend clients and summarize cases; negotiate settlements; and
- Achieve firm's monthly and annual billable hours requirement

Minimum qualifications include:

- Juris Doctorate degree from an ABA accredited law school;
- Status as an active member in good standing of the bar of any State – preference for North or South Dakota;
- Three to five years of Legal experience in representing entities or governmental entities, schools, and/or housing entities, and/or in contracts, federal procurement, land transactions, policy drafting, and working with entity clients boards;
- Experience working with Indian tribes or tribal entities strongly preferred
- Proven skills in effectively communicating with clients, opposing co-counsel, and federal/state/tribal agency representatives;
- Excellent analytical, research, and writing abilities; and
- Ability to work well independently and as a team in a

fast-paced environment;

Your total compensation package will include a competitive salary, bonus potential, participation in the firm 401(K) retirement plan, and a benefits package that includes health, dental, vision, life and disability insurance programs. Native American preference applies to this position.

Send your resume and cover letter, writing sample, professional references and law school transcripts (if graduated less than 5 years ago) to:

Robert Frazer, Chief Operating Officer  
[rfrazer@ndnlaw.com](mailto:rfrazer@ndnlaw.com)  
2020 L Street, Suite 250  
Sacramento, CA 95811

Position open until filled.

### **Attorney – Rapid City**

Credit Collections Bureau is seeking to expand by adding an attorney to join their Rapid City, SD branch. Credit Collections Bureau has been a successful Midwest collection agency for over 30 years, with locations in 3 states. You can join this successful team and continue to provide their clients with excellent results on their accounts receivable needs, while maintaining compliance with applicable laws and regulations.

Requirements include:

- The ideal candidate will have 0-3 years' experience.
- Must be licensed in South Dakota, ability to be licensed in South Dakota, or seeking licensure during the February 2022 Bar Exam.
- Ability and desire to obtain licensure in other states.
- Making court appearances and participate in hearings.
- Ability to conduct legal research and summarize findings concisely.
- Drafting civil litigation pleadings and defend the same.
- Participate in both civil litigation and business and transaction law. A rare opportunity to do both!
- Desire to become an expert in healthcare collections, as well as applicable laws and regulations
- Willingness to take direction from Senior Counsel.
- Must be a team player who is organized and can professionally interact with all staff.

Benefits include: 40-hour work week, competitive salary,

and benefits package, matching 401(k), health, dental and vision insurance, and generous PTO package.

To apply, please submit a resume and cover letter by email to [meganbrandriet@cabinet.com](mailto:meganbrandriet@cabinet.com)

### **Law Clerks for 2023-2024**

The South Dakota Supreme Court and seven Circuit Courts are recruiting for 2023-2024 Law Clerk applicants. If you are aware of any law students either in-state or out-of-state that may be interested in a one-year law clerk opening, please have them view the law clerk announcements on line at <https://uj.s.sd.gov/Careers/WorkForUs.aspx>. There are currently law clerk openings in various locations such as Pierre, Sioux Falls, Mitchell, Yankton, Aberdeen, Brookings, Deadwood or Rapid City. The deadline to apply for the clerkships is July 8, 2022. This is a great opportunity to work for the South Dakota Supreme Court or South Dakota Circuit Courts. If you have any questions, please contact the Unified Judicial System Human Resources office at 605-773-4867.

### **Child Support Referee - 5th Judicial Circuit**

**Position Description:** This position is that of an independent contractor with the Unified Judicial System as a child support referee. The qualifications and duties of the referees are generally described in South Dakota Codified Law including SDCL 25-7A-6 and 25-7A-22. Candidates for appointment as child support referees are recommended to the Supreme Court for appointment by the State Court Administrator. The referee will primarily serve the 5th Judicial Circuit; however, cases could sometimes be assigned from other circuits state-wide. After approval by the Supreme Court, a contract will be entered between the referee and the UJS. Currently, the flat-fee compensation for work as a child support referee is \$275 per case, as long as the contract requirements are met. The referee must provide their own equipment, schedule their own hearings and draft the necessary documents. Space may be provided, if necessary, in the local Courthouse.

All candidates for the child support referee position should possess the following criteria:

- Be a licensed attorney in the State of South Dakota & is a member in good standing of the State Bar Association;
- Be familiar with family law and the child support



referee process;

- Be organized in scheduling hearings and managing the associated paperwork;
- Able to efficiently manage time & priorities;
- Facilitate and maintain good working relationships with a wide variety of sources including the public, clerks, Judges, and DSS;
- Able to remain neutral and objective while assisting the public with the child support referee process;
- Able to manage stress and work with difficult people;
- Communicate effectively via telephone and e-mail;
- Be detail oriented;
- Able to meet strict deadlines;
- Able to maintain a professional demeanor at all times;
- Able to comply with the requirements of UJS.

A letter of interest as well as a complete resume may be submitted to the following address:

Greg Sattizahn  
State Court Administrators Office  
500 E. Capitol Avenue  
Pierre, SD 57501  
[Greg.Sattizahn@ujs.state.sd.us](mailto:Greg.Sattizahn@ujs.state.sd.us)

The candidate recommended for approval to the Supreme Court will be subject to a background check.

### **Deputy State's Attorney - Yankton**

Department: Yankton County State's Attorney  
Reports to: Yankton County State's Attorney  
FLSA Status: Exempt  
Grade: 13  
Probationary Period: 180 days

#### **Position Description**

•The Deputy State's Attorney performs routine legal work in the prosecution of civil and criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Yankton County as well as representing the State in mental illness proceedings.

Key Responsibilities (may not include all of the functions performed)

- Reviewing offenses and evidence to make determination on charges and prosecuting violations of state law.
- Reviewing requests for subpoenas, petitions and other legal documents.
- Advising county offices and commissions on legal

issues.

- Attending legal proceedings.

#### **Supervisory Responsibilities**

- Supervise support staff and interns.
- Represent the State's Attorney Office at public, private, and inter-governmental programs and events.
- Train and educate volunteers, law enforcement, and social workers on their roles and duties on legal issues and the court process duties.

#### **Qualifications**

##### **Required Knowledge, Skills and Abilities**

- Working knowledge of civil and criminal law and methods and practices of pleadings, court procedures, and rules of evidence.
- Working knowledge of principles, methods, materials, and practices utilized in legal research.
- Working knowledge of general law and established precedents.
- Ability to prosecute cases.
- Ability to speak and write effectively in the preparation and presentation of legal matters.
- Ability to establish and maintain effective working relationships with coworkers, other agencies, and the public.
- Ability to maintain professional appearance and demeanor.

#### **Education**

- Graduation from a college of law.
- Attainment of a Juris Doctorate degree from an accredited law school.
- Admission by the Supreme Court of South Dakota to practice law in the state of South Dakota; or be licensed to practice law in any other state and able to take the next available South Dakota bar examination; or be a recent or imminent law school graduate, eligible to sit for the next available South Dakota bar examination.

#### **Experience**

- 0-1 year

#### **Other Requirements**

- Ability to draft and use computer programs

Interested applicants can send a cover letter and resume to Rob Klimisch at [rob@co.yankton.sd.us](mailto:rob@co.yankton.sd.us) or Yankton County State's Attorney 410 Walnut #100 Yankton, SD 57078.

**MAGISTRATE JUDGE  
Third Judicial Circuit**

**Requisition #:** J22-09

**Agency:** Unified Judicial System

**Salary:** \$111,796.79 annually

**Closing Date:** February 17, 2022

**Position Purpose:** Position performs highly responsible legal work in the disposition of certain types of cases in magistrate court in the Third Judicial Circuit. This position will require travel. **Chambers for this position may be located in Codington, Lake or Moody County, depending on applicant preference.**

Work involves responsibility for hearing and ruling on certain civil and criminal cases. Work is supervised by the Presiding Judge of the judicial circuit. Position includes a generous benefits program: including retirement, health, life, vacation and sick leave, plus so much more.

Duties may include:

- conduct jury trials on misdemeanor cases and city ordinance violations;
- conduct court trials related to civil actions or small claims up to a specific jurisdictional amount;
- participate and assist with Drug Court and/or DUI court;
- issue warrants of arrest and search and seizure warrants;
- administer oaths and take acknowledgements;
- set bond and fix conditions of release;
- review and conduct protection order hearings pursuant to jurisdictional authority;
- conduct arraignments and other hearings;
- proficient computer skills including, but not limited to, Microsoft Office, jury management system, phone system and email;
- effective communication with court staff, attorneys and litigants;
- occasional work on nights, weekends and holidays.

**Comments:** Applicants must have graduated from an accredited law school, be licensed to practice law in South Dakota and have experience in the practice of law. Applicants must meet the State of South Dakota Constitutional requirements set forth in Article V Section 6 upon appointment. This position is appointed by the Presiding Judge of the judicial circuit, subject to approval by the Supreme Court, for a four-year term subject to potential renewal. The applicant recommended for appointment will undergo an intensive background investigation.

*To qualify for Veterans' Preference, a veteran must have been separated or discharged honorably or under honorable conditions. To be considered for Veterans' Preference, please attach a copy of the DD214, DD214R or NGB22 indicating qualifications per SDCL 33A-2-1.*

**To Apply:** Applicants must complete a letter of interest and a magistrate judge applicant/personal data questionnaire. This document can be obtained by accessing the following link <http://ujis.sd.gov/uploads/hr/MagistratePDQ.pdf> or contacting the Human Resources office. If the applicant has completed a circuit court judge judicial application/personal data questionnaire within the last six months, it may be submitted in lieu of the magistrate application, provided it is updated to the date of application. All personal data questionnaires must be submitted by the closing date to:

PMB 2713-000  
Director of Human Resources  
Unified Judicial System  
500 East Capitol Avenue  
Pierre, SD 57501  
Phone: (605) 773-4867; Fax: (605) 773-8437  
[Lisa.Mammenga@ujis.state.sd.us](mailto:Lisa.Mammenga@ujis.state.sd.us)  
An Equal Opportunity Employer

**PUBLIC NOTICE**  
**APPOINTMENT OF U.S. BANKRUPTCY JUDGE**

The United States Court of Appeals for the Eighth Circuit seeks applications from highly qualified candidates for a fourteen-year appointment as United States Bankruptcy Judge for the District of South Dakota. The position is headquartered in Sioux Falls, South Dakota. The vacancy will occur upon the retirement of United States Bankruptcy Judge Charles L. Nail, Jr., effective January 16, 2023.

The basic jurisdiction of a United States Bankruptcy Judge is specified in Titles 11 and 28, United States Code, and amendments thereto. To be qualified for appointment, an applicant must:

- (1) Be a member in good standing of the bar of the highest court of at least one state, the District of Columbia, or the commonwealth of Puerto Rico, and a member in good standing of any other bar of which the applicant is a member;
- (2) Have been engaged in the active practice of law for a period of at least five years (some substitutes authorized);
- (3) Possess, and have a reputation for, integrity and good character; possess, and have demonstrated, a commitment to equal justice under the law; possess, and have demonstrated, outstanding legal ability and competence; be of sound mental and physical health sufficient to perform the essential duties of the office; and indicate by demeanor, character, and personality that the applicant would exhibit judicial temperament if appointed; and
- (4) Not be related by blood or marriage to a judge of the Eighth Circuit Court of Appeals, to a member of the Eighth Circuit Judicial Council, or to a judge of the district court to be served, within the degrees specified in 28 U.S.C. § 458, at the time of the initial appointment.

A Merit Selection Panel will review all applications and recommend to the United States Court of Appeals for the Eighth Circuit, in confidence, persons considered to be best qualified. Appointment is subject to a background investigation, and applicants may be required to submit additional disclosures in the course of the selection process. The current annual salary is \$205,528. Applicants shall be considered without regard to race, color, age (over 40), gender, religion, national origin, disability, or sexual orientation.

Application forms may be obtained on line from the Clerk of the U.S. District Court for South Dakota at <http://www.sdd.uscourts.gov/>, the U.S. Bankruptcy Court for South Dakota <http://www.sdb.uscourts.gov/>, and the Circuit Executive's Office in St. Louis, Missouri by e-mail at [CE8employment@ca8.uscourts.gov](mailto:CE8employment@ca8.uscourts.gov) or by phone 314-244-2600. Persons selected must comply with the financial disclosure requirements pursuant to the Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824 (1978) (codified as amended at 5 U.S.C. app. §§ 101-111). Applications should be submitted only by the applicant personally and should indicate the applicant's willingness to serve if selected. Applications should be submitted to Ms. Millie B. Adams, Circuit Executive, 111 South 10<sup>th</sup> Street, Suite 26.325, St. Louis, Missouri 63102-1116, and must be received by **not later than 4:00 pm (Central Time) Monday, March 21, 2022.**

## Staff Attorney - Pierre

Division of Insurance, Department of Labor and Regulation

Job ID: 18306

Location: Pierre

Salary: \$67,943 to 75,502 DOE

Closing Date: Open Until Filled

This position is exempt from the Civil Service Act. This is a full-time position with the Division of Insurance, part of the Department of Labor and Regulation. For more information on the Division of Insurance, please visit <https://dlr.sd.gov/insurance>.

### Why the Division of Insurance?

At the Division of Insurance, our mission is to protect the public by providing assistance, fair regulation, and promoting a health, competitive market and we do so in team focused work environment. The team works hard together to protect the citizens of South Dakota when navigating the insurance and securities markets. Insurance companies, bail bondspersons, investment advisors, complex business transactions, federal/state conflicts, healthcare, auto claims... these are a few of the broad subject areas our team handles on a daily basis. Our collaborative efforts drive professional customer service and contribute to a favorable regulatory climate for business. These fields are evolving rapidly as technology reshapes our world. Along the way you'll gain valuable experiences like:

- prosecution of insurance and securities violations.
- legal review of multimillion and multibillion dollar insurance company mergers and acquisitions.
- consumer complaint support to directly assist claim recovery for citizens.
- professional growth through new challenges and valuable trainings.
- collaboration with other states and national companies, including multistate examinations.
- balance and flexibility for your personal life.

### What you will do:

- represent the Division before the Office of Hearing Examiners and state and federal courts.
- prosecute investigation files, prep witnesses, perform discovery, prepare briefs, etc.
- provide legal services and support to all areas of the

Division.

- assist in drafting administrative rules and proposed legislation.
- provide legal and policy advice to management and staff in a positive mentoring environment.
- collaborate with other State agencies and departments.

### Who we want:

- an attorney interested in practicing within a broad range of legal subjects within the vast fields of insurance and securities law.
- a highly motivated attorney with a passion for service and desire to make a difference.
- a dedicated civil servant who will represent the Division with strong leadership skills and legal advice on a wide range of highly visible and sensitive issues.

### What you need:

- graduate from an accredited law school and member of the South Dakota Bar Association.
- experience in government practice or in-house legal department is preferred.
- experience in an administrative law setting as well as state and federal court is a plus.
- excellent communication skills and legal drafting are required.
- ability to analyze complex technical issues, facts, and precedent to provide sound advice.
- ability to develop and maintain strong relationships with diverse groups.
- equally as important will be a strong work ethic and interpersonal skills, discretion, confidentiality, and a positive approach.

If you enjoy a fast-paced career in a continually evolving field with a great team by your side, apply. You must apply online at <https://sodakprod-lm01.cloud.infor.com:1443/lmg/hr/xmlhttp/shorturl.do?key=GS8>. Required documents: resume, cover letter, and writing sample. A license to practice law in the South Dakota is desired. Knowledge of insurance and securities law is a plus.

### VETERANS' PREFERENCE ELIGIBLE

The State of South Dakota does not sponsor work visas for new or existing employees. All persons hired will be required to verify identity and eligibility to work in the



United States and complete an Employment Eligibility Verification, Form I-9. The State of South Dakota as an employer will be using E-Verify to complete employment eligibility verification upon hire. The State of South Dakota offers employer paid health insurance plus ten paid holidays, generous vacation and sick leave accrual, dental, vision, and other insurance options, and retirement benefits. You can view our benefits information at <https://bhr.sd.gov/job-seekers/work-for-state-government/>. This position is a member of Class A retirement under SDRS.

### **Executive Director - Sioux Falls**

East River Legal Services (ERLS) in Sioux Falls, SD seeks a dynamic and experienced leader with a passion for providing excellent and effective civil legal aid to low-income citizens. ERLS serves a thirty-three (33) county area in eastern South Dakota including Aberdeen, Watertown, Mitchell and Yankton. A present service priority is emergency housing cases west of the Missouri River. We provide a full array of free civil legal services, focusing on domestic relations and housing, in an effort to address critical civil legal needs related to our clients' safety, stability, and health. For more information please visit our website: <https://erlservices.org/>

The Executive Director will bring leadership, passion, vision, and significant legal and administrative experience to implement innovative strategies to meet changing legal needs of our clients and to expand funding sources. The Executive Director oversees a staff of twenty-two (22) and a program budget of over \$2 million. They are responsible for program operations, development, grant management, strategic planning, and administration of the program's activities in furtherance of its mission. The Executive Director is appointed by, and reports to, the ERLS Board of Directors.

#### **Job Duties:**

- Top-level administration of ERLS and management of operations, staff and facility.
- Serves as the liaison to the ERLS Board of Directors, keeps the Board apprised of all aspects of the organization's work, and develops the knowledge needed for effective stewardship of ERLS.
- Serves as the public face of ERLS in all media and settings, and provides leadership in local, state, and national civil legal aid forums. They will also participate

in administrative and private forums, and additionally engage with the local courts, community leaders, and the private bar.

- Increases and diversifies financial support through private fundraising initiatives. Raises funds to support the work of the agency in concert with development management staff. Cultivates private donors, engages corporate sponsors, and pursues new grants.
- Envisions success for the agency, developing policies and protocols to support program services that advance the mission of the agency.
- Conducts oversight of the Legal Services Corporation (LSC) grant, ensuring that all reporting requirements are met, and the agency conforms its practices and services to the regulations set forth by Congress.
- Leads and promotes collaboration with other civil legal services providers and human services organizations throughout the state and region. Thinks creatively about gaps in civil legal services and works with our talented staff to close those gaps.
- Oversees the creation and amendment of budgets as needed, with consideration of cost containment where appropriate.
- Assures fiscal integrity of the program.
- Works with the Board and the Audit and Finance Committee to conduct financial planning and to implement financial strategies.
- Mentors and builds other leaders within the organization; actively promotes supervisory training, improved communication, and the development of skills to address personnel and resource allocation issues.
- Deploys technological innovations that enable staff to work effectively and enable the public to access legal services.
- Commands the respect of members of the bar, the judiciary, and others in positions of authority or influence in the community.

#### **Requirements:**

1. A demonstrable commitment to and understanding of the critical legal needs of low-income individuals.
2. A J.D. and be admitted to the South Dakota bar or the ability to obtain admission within one year.
3. A minimum of five (5) years of experience in the practice of law.
4. Five (5) years of management experience involving staff supervision, financial oversight and reporting, budget development, and compliance with grant and contract requirements.

5. Three years, or equivalent experience, with fiscal oversight of a program, law firm, company, or government entity.
6. Computer skills, including legal management systems like Legal Server.
7. Familiarity with Legal Services Corporation regulations is preferable.
8. Enthusiasm for and investment in culturally diverse environments.
9. Proven ability to work collaboratively with the community, funders, partner organizations, volunteers, Board Members, and other stakeholders.
10. Demonstrated success in resource development, including private fundraising and grant writing.
11. Prior experience working with a Board of Directors in a non-profit or legal services environment, or equivalent experience, is preferable.
12. Demonstrated commitment to public service, embracing the skills of a servant leader, modeling the attributes necessary to inspire and lead staff and management team.
13. Demonstrates impeccable character and engenders respect in the community, bringing good relationship skills to ERLS.

#### To Apply:

Applications will be accepted until the position is filled. To receive full consideration, however, candidates are urged to submit their applications by Monday, February 14, 2022, at 5:00 p.m. CST. Interested candidates should submit a cover letter expressing, in detail, why they are interested in the position, as well as what they believe they can contribute to the future of the program and its client community. The letter should be accompanied by a current resume and the names and contact information of three professional references. All applicants will be required to allow access to any available state bar association information. Please address applications to [ERLSED@woodsfuller.com](mailto:ERLSED@woodsfuller.com).

East River Legal Services is an Equal Opportunity Employer. Persons of color, veterans, persons with disabilities, and persons from other traditionally underrepresented communities are strongly encouraged to apply.

### **Legal Assistant or Paralegal - Pierre**

The Federal Public Defender for the Districts of South Dakota and North Dakota is accepting applications for a Legal Assistant or Paralegal in our Pierre branch office. Our office provides high-quality representation to people charged with federal crimes who cannot afford to hire an attorney.

**Position Description:** The Legal Assistant or Paralegal provides legal support to the attorneys. Responsibilities include drafting, typing, editing, cite checking and electronic filing of legal pleadings and correspondence; maintaining attorney calendars and client files; managing, calendaring, and setting-up meetings; receiving and directing calls; screening and routing incoming mail and preparing correspondence; organization and electronic management of discovery. Position duties will vary depending on whether the individual is hired as a Paralegal or Legal Assistant.

**Qualifications:** High school graduate or equivalent. The ideal candidate will be an effective communicator, flexible, and dependable; proficient in Microsoft Word and Adobe Acrobat; Prior law office experience is preferred. A final offer of employment is subject to funding and a background check.

**Salary/Benefits:** Starting salary commensurate with experience and qualifications. Salary is payable only by direct deposit. The pay range for a Legal Secretary is \$40,262-\$71,146. The range for a Paralegal is \$66,214-\$86,074. The position is full-time with federal benefits, including life and health insurance, retirement, and the Thrift Savings Plan.

**How to Apply:** Apply by emailing a letter of interest, resume, and three professional references in a single pdf document to [SDX\\_JOBS@fd.org](mailto:SDX_JOBS@fd.org). Position is open until filled. All applicants will receive prompt consideration. Please direct any inquiries to the above email address.

The Federal Public Defender for the Districts of South Dakota and North Dakota is an Equal Opportunity Employer.

## **DOE Intern - Attorney - Pierre**

(Summer)(Job Id 18360)

Location: Pierre Post Date: 01/27/2022

Agency: Education Close Date: 02/17/2022

Employment Type: Intern

Salary: 25.70-25.70 US

### Description

Session: Summer (May - August)

Position Title: Intern – Attorney

Supervisor: Amanda LaCroix

Agency: Department of Education

Location: Pierre

**\*APPLICANT MUST BE A FULL-TIME STUDENT (MINIMUM OF 12 CREDIT HOURS) IN THE SEMESTER IN WHICH YOU APPLY.**

### Position Description:

The Legal Office at the Department of Education is hiring one summer intern. This position provides legal assistance under the direct supervision and review of the staff attorney. Duties include but are not limited to: conduct legal research; reviews and summarizes legal documents; draft legal documents such as contracts, correspondence, pleadings, pre-trial discovery documents, exhibits and evidence for hearings; attend court or administrative hearings; assist in administrative rule drafting and making; assist in representation of the department and Board of Education Standards.

This position is an office setting, Monday through Friday, eight hours a day.

Ideal candidate will have a bachelor's degree and completed one year of law school.

### Qualifications:

Applicant must be a full-time student at a college, university or technical institute at the time they apply. By the start of the internship, the applicant should have at least a sophomore standing or currently be enrolled at a technical institute and have completed one year (nine months).

Preference will be given to applicants with a junior standing, South Dakota residents and students of South Dakota institutions.

Minimum Salary: \$25.70

Apply at: <https://sodakprod-lm01.cloud.infor.com:1443/lmg/hr/xmlhttp/shorturl.do?key=GU2>

South Dakota Bureau of Human Resources

Telephone: 605.773.3148

"An Equal Opportunity Employer"

\*Positions can be filled prior to the closing date.\*

## **Staff Attorney's - Sioux Falls**

East River Legal Services (ERLS) is seeking to hire several Staff Attorney's. The positions are in our Sioux Falls, South Dakota office, but will require travel throughout eastern South Dakota on occasion. We are a non-profit law firm serving low-income individuals in the 33 Eastern South Dakota counties. ERLS exists to better the lives of the over 52,000 people living in poverty in Eastern South Dakota. We offer free legal services to our community's veterans, older Americans (60+), the disabled, victims of crime, and all those facing financial insecurity.

### Summary of Position:

This specific position requires the representation of victims of crime in all areas of law including housing, family law, Protection Orders, landlord/tenant disputes, evictions, utilities, public benefits, consumer, and other civil matters. The types of services provided include legal advice, brief service, and/or extended representation. Aside from direct representation, the Staff Attorney position requires preparing and delivering client training and other community education, conducting intake and outreach, appearing in administrative and judicial forums, active bar participation, and special legal and community projects. The Staff Attorney shall perform any other responsibilities under the supervision of the Executive Director and/or Managing Attorney as may be necessary for the day-to-day operation of the Program.

### Qualifications:

Applicants must be licensed to practice law in South Dakota or be eligible for admission by motion. Previous experience in poverty law or with crime victims is preferred, but not required. Demonstrable awareness and sensitivity to the needs of the populations we serve is necessary. Strong organizational skills, ability to work independently, excellent written and communication skills, ability to work constructively with others, and ability and willingness to work hard are all necessary

qualifications for this position. The ability to speak more than one language is a plus. Persons of color, veterans, persons with disabilities, and persons from other traditionally underrepresented communities are strongly encouraged to apply.

East River Legal Services is an Equal Opportunity Employer.

**Salary and Benefits:**

Salary based on experience. Benefits include paid holidays and vacation days, parental leave, health, dental, vision, travel reimbursement, Life, AD & D, and IRA.

Pay: \$53,000.00 - \$65,000.00 per year

**To Apply:**

Interested applicants should send their Cover Letter and Resume to:

East River Legal Services  
Attn: Brent Thompson  
335 N. Main Ave., Suite 200  
Sioux Falls, SD 57104-6038

Or Email to:

[Brent@erlservices.org](mailto:Brent@erlservices.org)

Closing Date: Open Until Filled

**Staff Attorney - Aberdeen**

East River Legal Services (ERLS) is seeking to hire a Staff Attorney in its new Aberdeen, South Dakota office. We are a non-profit law firm serving low-income individuals in the 33 Eastern South Dakota counties. ERLS exists to better the lives of the over 52,000 people living in poverty in Eastern South Dakota. We offer free legal services to our community's veterans, older Americans (60+), the disabled, victims of crime, and all those facing financial insecurity.

**Summary of Position:**

This specific position requires the representation of victims of crime in all areas of law including housing, family law, Protection Orders, landlord/tenant disputes, evictions, utilities, public benefits, consumer, and other civil matters. The types of services provided include legal advice, brief service, and/or extended representation. Aside from direct representation, the Staff Attorney

position requires preparing and delivering client training and other community education, conducting intake and outreach, appearing in administrative and judicial forums, active bar participation, and special legal and community projects. The Staff Attorney shall perform any other responsibilities under the supervision of the Executive Director and/or Managing Attorney as may be necessary for the day-to-day operation of the Program.

**Qualifications:**

Applicants must be licensed to practice law in South Dakota or be eligible for admission by motion. Previous experience in poverty law or with crime victims is preferred, but not required. Demonstrable awareness and sensitivity to the needs of the populations we serve is necessary. Strong organizational skills, ability to work independently, excellent written and communication skills, ability to work constructively with others, and ability and willingness to work hard are all necessary qualifications for this position. The ability to speak more than one language is a plus. Persons of color, veterans, persons with disabilities, and persons from other traditionally underrepresented communities are strongly encouraged to apply.

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Salary based on experience. Benefits include paid holidays and vacation days, parental leave, health, dental, vision, travel reimbursement, Life, AD & D, and IRA.

Pay: \$53,000.00 - \$65,000.00 per year

**To Apply:**

Interested applicants should send their Cover Letter and Resume to:

East River Legal Services  
Attn: Brent Thompson  
335 N. Main Ave., Suite 200  
Sioux Falls, SD 57104-6038

Or Email to:

[Brent@erlservices.org](mailto:Brent@erlservices.org)

Closing Date: Open Until Filled



### **Staff Attorney – Rapid City**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Rapid City, South Dakota, office. The Rapid City office serves Butte, Custer, Fall River, Harding, Lawrence, Meade, Pennington and Perkins counties in South Dakota.

**QUALIFICATIONS/RESPONSIBILITIES:** Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate practice responsibilities, including handling a significant caseload touching on many different areas of law with regular appearances in court; and must demonstrate an interest in poverty law and working with Native American and low income clients.

**SALARY:** Competitive, depending on experience. DPLS has excellent fringe benefits, including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

**CLOSING DATE:** Open until filled.

**APPLICATION INFORMATION:** Please submit a letter of interest and resume to: Thomas S. Mortland, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, [tmortland@dpls.org](mailto:tmortland@dpls.org).

Native Americans, Women and Minorities are encouraged to apply. Dakota Plains Legal Services is an Equal Opportunity Employer.

### **Corporate Attorney Openings - South Sioux City, NE**

Do you dream of a challenging and fulfilling legal career that also offers you the healthy work-life balance necessary to juggle the demands of your busy life? Great West Casualty Company has opportunities for attorneys on our legal teams that afford you the ability to achieve just that, all with no billable hours!

These roles enjoy a hybrid work schedule with the ability to work from home 2 days per week and in office

3 days per week! We offer a full relocation package and are considering attorneys of all experience levels.

- **Corporate Counsel:** In this position, you will monitor and provide strategic guidance, consultation, and support to the various departments of Great West Casualty Company, Joe Morten & Son, Inc., and ORI affiliates in an effort to ensure conformity with legal requirements and to facilitate communication and coordination that fosters consistent, efficient, and appropriate practices in support of overall company business objectives. This role focuses on contract work and has the potential to cover a diversity of issues including contract review, EMP, document retention, bankruptcy, collections, cybersecurity, state privacy laws, new regulations on business continuity plans, financing law and intellectual property such as trademark and copyright. You will also have the opportunity to put your strong communication and collaboration skills to good use as you effectively work with a diverse group of supervisors, managers and employees at our various locations.

- **Coverage Attorney:** As a coverage attorney, you will focus on the motor carrier policy, providing counsel, training, and assistance to the regions' claims departments to foster consistent, efficient, and appropriate claims practices. You will prepare coverage opinions and memoranda on claims legal topics as well as oversee litigation and declaratory judgment action while supervising outside counsel.

- **Subrogation Claims Attorney:** As a subrogation claims professional in our subrogation department, you will review information on reported claims and determine if third parties have a legal liability for damages to Great West or our insureds due to an incident. When you come to work, you'll provide communications on open claim files and diligently negotiate settlements. Successful candidates are driven to succeed and conduct business with the highest ethics while helping others.

Who we are:

Great West Casualty Company provides specialized insurance products unique to the trucking industry and outstanding customer service to the thousands of truck drivers and trucking companies we serve. Over the past 65 years, we have grown to five offices serving insureds in over 40 states. We are now one of America's largest insurers of trucking companies. If your passion is to help others, you value education and

continuous improvement, you enjoy participating in community activities, and you want to be valued for your contributions, come be part of our successful team.

Why work for us?

We offer you a challenging career with a competitive compensation and benefits package, including:

- A 37.5 hour work week.
- Flexible schedules for a stable work-life balance.
- Opportunities for growth and development.
- Paid study materials, exam fees, study day, and monetary awards for professional development.
- Paid time off for vacation, holidays, sick leave, leave of absence and more.
- Opportunities to impact the organization through participation in committees (Green Team, Fun Committee, etc.).
- Support of a healthy lifestyle through a wellness program and gym subsidy.

This position qualifies for relocation assistance. To learn more about Great West and our office locations, please visit our website [www.gwccnet.com](http://www.gwccnet.com).

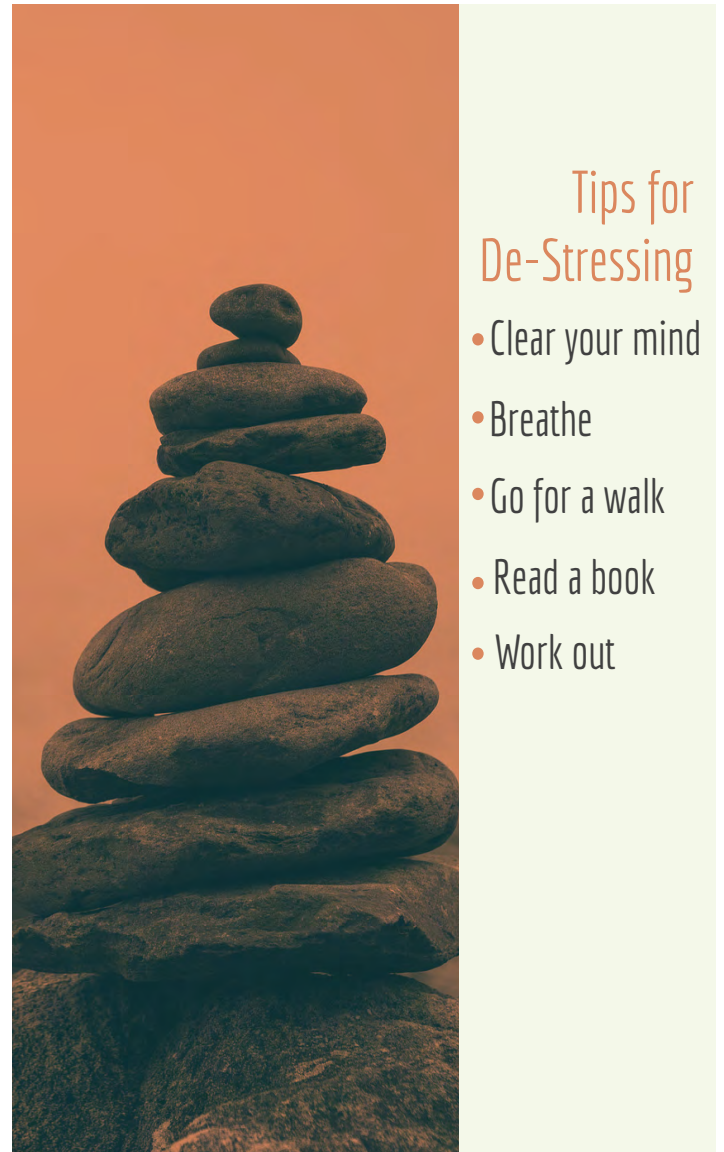
- For Corporate Counsel and Coverage Attorney a JD degree and licensed to practice in at least one state.
- For Subrogation Claims Attorney, claims experience would be considered in lieu of a JD degree.
- Will consider applicants of varying experience levels.



## Corporate Counsel – Sioux Falls or Helena, MT

NorthWestern Energy is seeking applicants for a Corporate Counsel position based in Sioux Falls, South Dakota or Helena, Montana. The selected attorney will provide support to NorthWestern Energy's Legal Department, with responsibility for drafting and negotiating contracts, reviewing transactional matters, resolving disputes, researching issues and assisting as part of a team in developing and implementing various strategies within the energy industry.

To review a summary of the position, salary range (\$82,000 to \$135,500 based on experience) and to apply, visit <http://www.northwesternenergy.com>. NorthWestern Energy is an equal opportunity employer.



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## **SOUTH DAKOTA DEPOSITION ACADEMY**

### **TO ALL MEMBERS OF THE STATE BAR OF SOUTH DAKOTA**

The popular Deposition Academy returns in 2022 for members of the South Dakota Bar. The third Deposition Academy is being held on Wednesday, July 13 through Friday, July 15 at the University of South Dakota Knudson School of Law.

Mastery of the skills needed to gather information, gain admissions, and test theories is essential to a successful trial practice. The Deposition Academy is designed to provide the tools any lawyer needs to confirm facts they know, validate facts they think they know, and learn facts they need to prove their case.

The Deposition Academy is a learning by experience course. Participants in the program will hear about techniques used in taking and defending depositions, see demonstrations by experienced trial lawyers, and then actually practice those skills in a simulated deposition setting. During each workshop, participants will perform and practice skills essential to effective deposition taking or defending and then receive suggestions from experienced members of the faculty that will allow them to enhance their skills. Each workshop adds skills so that by the conclusion of the Academy participants will have built new techniques, enhanced existing skills, and gained confidence.

During the program you will learn a technique that allows you to wring every last bit of information from a witness. You will master techniques developed by The National Institute for Trial Advocacy that include “The Funnel Technique” and “Getting a List.” We will also spend time practicing techniques to defend your client’s interests in a deposition and how to prepare a witness for their deposition.

New to the 2022 version of the Deposition Academy is information and ideas on the process of creating an outline for deposing a witness. There are subtle differences and important additions counsel should consider when the process moves online. This includes additional questions asked during the commitment stage and how exhibits will be distributed and used.

The process of building a top-notch team of instructors is currently underway. The State Bar Trial Academy Committee is working to select a team of women and men who are the best and brightest of the South Dakota Trial Bar. The team will include lawyers who represent plaintiffs and defendants and practice in both large and small firms. The University of South Dakota Knudson School of Law is again providing both space and logistical support for the Academy. The partnership of the Bar Association, the law school, and the South Dakota Chapter of ABOTA, ensures a high-quality course that is open to all.



Joining the program as Program Director and Team Leader will be Mark S. Caldwell. Mr. Caldwell has long been associated with advocacy programs in South Dakota, having designed both trial and deposition courses offered over the years. He is a former employee of the National Institute for Trial Advocacy and continues to serve as both a Program Director and instructor for many NITA courses. He was the first Program Director for NITA's Deposition Skills course and has served in that role for close to thirty years. He has been recognized by the receipt of NITA awards for his service to the organization and his creativity. Mr. Caldwell is also a past recipient of The Lifetime Achievement for Excellence in Teaching Advocacy by Stetson University College of Law. Mr. Caldwell will offer many of the presentations during the Academy and will assist other instructors in their teaching duties. The combination of a national instructor and local faculty knowledge of how depositions in South Dakota are taken promises a rewarding experience to participants.

The tuition for the 2022 Deposition Academy is \$1,000. Enrollment in the program is limited to twenty-four (24) participants. Early registration is advised to ensure you have a place in the course. Past programs have filled quickly.

The Trial Academy Committee is aware of the challenges presented by COVID-19. The program will follow all federal and local rules to ensure the safety of participants and instructors.

Join us in July for a program that will help complete your tools in taking and defending depositions.

South Dakota State Bar Trial Academy Committee

Thomas J. Welk  
Melanie Carpenter  
Stephanie Pochop  
Clint Sargent  
Reed Rasmussen  
Heather Lammers Bogard

**DEPOSITION ACADEMY REGISTRATION**  
**JULY 13 – 15, 2022**  
**USD KNUDSON SCHOOL OF LAW, VERMILLION, SD**

**SPONSORED BY THE STATE BAR OF SOUTH DAKOTA, THE SOUTH DAKOTA CHAPTER OF ABOTA  
AND THE UNIVERSITY OF SOUTH DAKOTA KNUDSON SCHOOL OF LAW**

**Name:** \_\_\_\_\_

**Firm or Organization:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Please register me for the 2022 Deposition Academy. I enclose a deposit of \$500 (made payable to SD CLE, Inc.) towards the full tuition of \$1,000. I acknowledge that the deposit, should I be accepted and subsequently am not able to attend, is non-refundable, unless a replacement is found. If I am not accepted, I understand that my deposit will be returned to me. I understand that no interest will be payable on returned deposit. I further understand that I will be responsible for any costs associated with travel, lodging, and meals. If I am accepted, I will pay the balance of \$500 no later than July 1, 2022.

I understand there may be more applicants than available participant spaces and that the Deposition Academy is primarily intended for lawyers with limited litigation experience who desire to further develop his or her skills. The following professional information relative to my professional experience will be used by the admissions committee solely to determine whether I will be accepted for the Deposition Academy and the information will be used for no other purpose nor shared with any other entity. If there are more applicants than available space, I recognize that the admissions committee will accept the earlier application with deposit for similarly situated applicants.

**Size of firm or organization:** \_\_\_\_\_

**Years admitted to practice:** \_\_\_\_\_

**Number of depositions taken:** \_\_\_\_\_

**Number of depositions defended:** \_\_\_\_\_

**Brief description of your current practice:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Mail this completed registration form, together with a check in the amount of \$500, payable to SD CLE, Inc. to:**

State Bar of South Dakota  
111 W Capitol Avenue #1  
Pierre, SD 57501



# *FEBRUARY*

## *Upcoming Events*

*February 16 | Bar Commission Meeting | Teleconference*

*February 17 | Law for Lunch - Land Use Issues in SD | Zoom*

*March 16 | Bar Commission Meeting | Teleconference*

*April 20 | Bar Commission Meeting | Deadwood*

*May 6 | Criminal Law AM & Family Law PM CLE's | Ramkota, Rapid City*

*May 18 | Bar Commission Meeting | Teleconference*

*June 2 - 4 | Jack Rabbit Bar | SpringHill Suites, Deadwood*

*June 22 - 24 | Annual Meeting | Ramkota, Rapid City*