

STATE BAR OF SOUTH DAKOTA

Newsletter

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FEBRUARY 2026



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6th Cir- Kristen Edwards, kristen.edwards@state.sd.us

7th Cir- Steven Blair, steven.blair@state.sd.us

State Bar of South Dakota

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President's CORNER

John T. Richter

Strengthening Our Connections: February Reflections Through the Lens of the Whole Attorney Framework

From John Richter, President of the State Bar of South Dakota

Dear Members of the State Bar,

As we continue our theme of **Connection**, I want to share how this concept aligns with a broader vision I recently introduced in a past President's Message: the **Whole Attorney Framework**. As a refresher, this initiative recognizes that lawyers are more than legal technicians - they are whole people with professional, personal, emotional, and ethical dimensions that all impact their effectiveness, satisfaction, and longevity in the profession.

The framework is built around seven pillars:

1. **Professional Competence.** Lifelong learning, ethical judgment, and effective practice management.
2. **Mental & Emotional Well-Being.** Tools for resilience, stress management, and mindfulness.
3. **Physical Health.** Emphasizing sleep, nutrition, movement, and energy management.
4. **Social Connection & Community.** Fostering mentorship, belonging, and service.
5. **Purpose & Meaning.** Encouraging values alignment, identity beyond work, and legacy thinking.
6. **Financial Wellness.** Promoting financial literacy and sustainable practice models.
7. **Professional Civility & Culture.** Upholding respect, inclusion, and trust within the profession.

How Recent Efforts Fit Within This Framework:

Social Connection & Community: Strengthening Bench-Bar Relationships

When planning events throughout the year, I've approached each opportunity through three guiding questions:

How can we add value to our members? How can we make activities more inclusive? How can we elicit more engagement?

As I've mentioned before, our mixers in Pierre and Sioux Falls have been a tremendous success. But January in South Dakota is always unpredictable with weather, travel, and legislative session all adding complexity. With that in mind, I wanted to create something meaningful for our Commissioners during this time.

To accomplish this, I reached out to Chief Justice Steven R. Jensen to explore ways we could collaborate with the Court and Legislature. Through those conversations, Chief Justice Jensen emphasized one of the unique benefits of Bar leadership: the opportunity to engage more directly with influential members of the profession. After reviewing calendars, we settled on January 14th as

the ideal date.

The plan was simple: Commissioners who could make the trip to Pierre could attend the State of the Judiciary Address, share lunch with the Justices, and then observe the State of the Tribes Address.

Of course, with any new event, there's uncertainty. Would Commissioners travel from their circuits in the middle of winter? Would the weather cooperate? Would hotel rooms be available during the Session? I'm pleased to report that the event exceeded expectations. Commissioners from across the state attended, and all five Justices were present, including our newest member, **Justice Robert Gusinsky**.

This gathering was more than a lunch. It was an opportunity for candid, constructive, and collaborative conversations that strengthen trust between the bench and the bar. These relationships are the foundation of a healthy profession, and events like this remind us why connection matters.

A special thank you to the South Dakota Supreme Court for their time and commitment:

- Chief Justice Steven R. Jensen
- Justice Mark E. Salter
- Justice Patricia J. DeVaney
- Justice Scott P. Myren
- Justice Robert Gusinsky

The feedback from Commissioners was overwhelmingly positive. Many expressed appreciation for the chance to engage directly with the Court, and the consensus was clear: **this should become an annual tradition**.

Professional Civility & Culture and Purpose & Meaning: The Open Courthouse Initiative

Similarly, the upcoming **Open Courthouse Initiative** reflects multiple pillars of the Whole Attorney vision.

Once a year, each circuit will host a half-day event that brings together judges, attorneys, and court staff for an afternoon of dialogue and learning. The initial plan was for the event to begin with a virtual panel discussion featuring all judges from the circuit, each participating from their respective courthouses. The panel will allow judges to share reflections on the profession, discuss issues of professionalism and civility, and respond to

questions submitted by local attorneys.

Following the panel, attorneys will be invited to participate in a courthouse experience featuring introductions to court staff and a guided tour. This portion of the event aims to demystify court operations, especially for newer attorneys, and to highlight the important work of those who keep our courts running smoothly. The day will conclude with a mixer, providing an informal setting for judges, attorneys, and court staff to connect more personally.

A special thank you to Judge Means, the Judicial Bar Liaison Committee, the Young Lawyers Section, and Bar Staff for leading this effort. Planning is underway across circuits, and we are excited to see this initiative come to life.

Looking Ahead: Continuing the Momentum!

I'm always looking for ways to make your membership more valuable. One of the next things on my list is finding the perfect spot for our upcoming mixer - it's going to be a great chance to connect. Mark your calendars: the next mixer is coming in April!

Thank you for the privilege of serving as your President.



John Richter
President, State Bar of South Dakota





Deadwood March 13 – Be There!

We invite everyone to head west the Friday before St Patrick's Day! On March 13th, the Young Lawyers are hosting our annual Spring Bootcamp at the Deadwood Mountain Grand Hotel. Lawyers of all ages and experience levels are welcome to register for the CLEs and encouraged to come out to socialize with us at the end of the day. Click [here](#) to Register!

Five Small Wins Worth Celebrating as a Young Lawyer

I learned early in my practice that I missed school. Particularly, I missed a syllabus that told me how to expect to get from Point A to Point B, and a grade to reflect how well I progressed from Point A to Point B.

In practice, it can be more difficult to ascertain whether I'm swimming in the right direction and making progress. Sometimes success comes in defined moments like winning a motion, landing a client, or receiving positive feedback from another attorney or a client. More often, growth shows up in much quieter ways and does not accumulate in a predictable progression laid out by a syllabus. Here are a few small wins that often go unnoticed, but matter just as much.

1. Learning from feedback instead of fearing it

Redlines and critiques are part of the job. A small but meaningful win is noticing that feedback feels

less personal over time—and that you're actually applying it. Growth often looks like better drafts, sharper analysis, and fewer repeat mistakes.

2. Earning a client's trust

When a client follows your advice, calls you with a question, or simply says "thank you," that's not accidental. Trust is earned through preparation, communication, and professionalism, and it's something every young lawyer should be proud of.

3. Handling a difficult moment professionally

While there is no shortage of challenges, make sure to celebrate when you make it to the other side. You may have handled a difficult reality check with a client, leveled with opposing counsel, or confronted a mistake you made – it's a relief when it's over. Handling those tough moments with integrity and composure is an accomplishment.

4. Recognizing your own progress

Confidence doesn't always arrive loudly. Sometimes it's speaking up in a meeting, setting boundaries, or simply realizing you're more comfortable than you were six months ago. That quiet confidence is still worth celebrating.

5. Enjoying the process

It's understandable that sometimes the grind is no fun. The to-do list can overshadow what you may enjoy about practice. There is real success in recognizing what you enjoy—or reframing your mindset to find it. When you can do that, whether it's digging into research, brainstorming with a colleague, or connecting with a client, the work feels more sustainable.

The early years of practice can feel overwhelming, especially when it seems like everyone else has it figured out. Taking time to acknowledge these small wins can be a reminder that progress is happening—even when it doesn't feel dramatic.

State Bar of South Dakota

ANNUAL COMMITTEE & SECTION REPORTS

**DEADLINE:
APRIL 30, 2026**

**This report is drafted and submitted by
committee & section chairs*

SUBMIT

Questions? Contact Alyssa Blasius at
Alyssa.Blasius@sdbar.net

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Certificate of
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**DEAN'S LIST:
NEWS FROM THE LAW SCHOOL**



Neil Fulton

Dean, School of Law

One of the most significant developments of the past year was the South Dakota Supreme Court's adoption of the Public Service Pathway pilot program. With the first student cohort having wrapped up the placement portion of the program, it is timely to talk about what has been learned and what comes next.

First, a quick reminder about what the Public Service Pathway pilot program is. The pilot allows up to ten students per year from the Law School to obtain admission to the bar by successful completion of a different path than the traditional bar examination. Students must pass the MPRE and character and fitness review by the Board of Bar Examiners and may not have previously taken a bar exam or been admitted in another jurisdiction. During their fifth semester of law school, they must complete at least 500 hours of placement in a public sector office approved by the Law School. During that placement, they must produce eight written work products on distinct legal issues, summaries of each court appearance they make, daily time and activity logs, and written reflections on each of these items. The Board of Bar Examiners reviews this work, and observation of court appearances if feasible, to ascertain minimum competence. The Law School independently reviews that and classroom work for academic credit. If the applicants successfully complete those obligations, they can be admitted to the bar. They must, however, commit to at least two years of service in a public service office (which need not be the same office they worked in while in law school) after graduation. If they fail to complete that obligation without extenuating circumstances, they must surrender their license and

take the bar examination. If you'd like more detail, the rules can be found here: <https://sdlegislature.gov/Statutes/16-16A>

It was exciting to see thirteen students apply for the inaugural cohort of this program. It was gratifying to have five public sector offices agree to undertake the demanding work of hosting, supervising, and mentoring these students. Karli Viher and Thomas Potts worked in the Pennington County State's Attorney Office. NSU alumna Mayson Coyle worked in the Brown County State's Attorney Office. Teagan McNeary was with the Federal Public Defender Office in Sioux Falls. Aiden Mullaney, Kylee Van Egdom, and Ryan Kroger all worked in the Minnehaha County State's Attorney Office. Emily Whitney and Casey Aberfelder-Dial were in the Minnehaha County Public Defender office. My thanks to these students for the courage to be the first participants and to each of these host offices for their patience and investment in these young lawyers.

I must also give tremendous thanks to Ann Bailey at the Board of Bar Examiners and the Examiners themselves: Judge Susan Sabers, Jack Hieb, Judge Jane Wipf Pfeifle, Reed Rasumssen, and Cassidy Stalley. Ann did countless hours of work developing rules and rubrics, gathering applicant submissions, working through questions not anticipated or left open during the rule development process, and answering questions from everyone involved—often multiple times, but always patiently. Likewise, a huge hat tip to the Examiners. Having once been an examiner myself, I can confidently say that the volume of work involved in reviewing these

portfolios is greater in volume and urgency than grading traditional exams. The Board volunteered the many hours it took to do so, providing a firm check to ensure minimum competence comparable to the traditional bar examination and a fair and reliable process for the applicants. Well done and thank you!

Here at the Law School, Professor Nash likewise deserves kudos. She repeatedly made ideas reality, calmed student fears, and kept our train on the tracks. Thank you.

With this background of what the pilot program is, it is fair to ask: how is it working? My answer, and the answer I have heard consistently from people involved in the program, is that it is working exceptionally well. The experience of the inaugural cohort has exceeded any expectation I had for the quality of their experience, the level of practice readiness they developed, and the efficacy of the program in assessing minimum competence, albeit in a way distinct from the traditional bar examination. There remains work to be done to improve every aspect to be sure, but the work of this inaugural cohort provides a firm foundation upon which to build. We can see this from the experience of students and their feedback about PSP.

Two students played active roles in successful murder prosecutions. That is a remarkable experience for a young lawyer. The supervising attorneys lauded their work, including delivering the opening statement in one of the trials. Students covered misdemeanor court for both prosecution and defense. They handled civil trials in abuse and neglect cases. They drafted motions on suppression and sentencing issues. In other words, students were fully and actively engaged in legal practice.

The students also spoke glowingly of their experiences. Here is the observation of Karli Viher about her experience in the Pennington County State's Attorney office.

Before this experience, graduating from law school felt intimidating in a way my previous graduations never had. Each earlier milestone simply meant continuing to the next stage of education. Law school graduation, however, meant doing the real work at last. I found myself wondering whether I would enjoy practicing law or whether I would be good at it. Public Service

Pathways completely changed that mindset. I am no longer afraid to graduate. I now know that I love this work, and I am confident in my ability to do it well.

Choosing a single favorite memory from Pathways is nearly impossible. Instead, I carry with me countless moments that shaped me as a future attorney. Those moments include stumbling through my first appearance in bond court, being complimented by a judge for the first time, engaging in thoughtful conversations with attorneys about trial strategy and charging decisions, and delivering an opening statement in a jury trial that resulted in convictions for Aiding and Abetting First Degree Murder and Conspiracy to Commit First Degree Murder. Each experience strengthened my belief in my abilities in ways I never expected.

Through Pathways, my critical thinking and legal writing skills grew immensely, a growth I have already noticed during my first weeks back at school. Beyond that, I gained practical knowledge and professional insight that simply cannot be taught in a classroom. Lastly, I am deeply grateful to everyone who made this program possible. I am entering my final semester of law school with clarity, confidence, and excitement about my future. I look forward to seeing this program continue to grow, and I hope to one day serve as a mentor to future participants.

These and so many other realizations from the student participants demonstrate that they will join the bar with more practical experience and practice readiness than most of us had.

The last question to consider about Public Service Pathway at this point is: what comes next? A few things.

First, the Oversight Committee appointed by the Supreme Court is evaluating the first cohort experience and considering what refinements should be made. As you would expect from a pilot program, experience will drive change. I fully expect changes to make PSP better.

Second, we are beginning to recruit for the next cohort. We recently held an information session for students here at the Law School. Students showed solid interest. Professor Nash is leading discussions with host offices and working to expand locations for broader geographic

reach.

Finally, it is important to continue to hear from the Bar about the program. If you have questions, suggestions, or concerns about Public Service Pathway, please take the time to communicate them. I am happy to hear them and share them with others. I know that Chief Justice Jensen and Justice Myren, who chairs the Oversight Committee, are interested in gathering feedback. For this program to succeed in drawing more students to

public service and providing more practical preparation for those lawyers requires engagement by many people. I hope that many of you will continue to provide that engagement.

I am happy to provide this update in the inaugural cohort of the Public Service Pathway pilot program. I look forward to sharing more information as the program evolves and grows.

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NEW FEATURE AVAILABLE!

Members can now indicate on their profile if they would like to serve as a **mentor**.

If you're interested in supporting and guiding other members, simply update your profile to let us know!





BANKRUPTCY ROUNDTABLE DISCUSSIONS

UNITED STATES COURTHOUSE
COURTROOM 3
515 NINTH STREET
RAPID CITY, SOUTH DAKOTA

THURSDAY, APRIL 23, 2026
11:30 A.M. - 12:30 P.M. (Mountain)

This event will consist of five introductory level discussions related to the basics of bankruptcy law.

Prior knowledge of bankruptcy law is not required. Each rotation will include a seven-minute briefing concerning the topic listed below, along with time for questions. The roundtable format is designed to create an opportunity for attendees of all backgrounds to engage with experienced bankruptcy practitioners to encourage interest in bankruptcy law.

Discussion Topics

STAN ANKER

INTAKE AND ANALYZING
FINANCIAL SITUATIONS
FOR RESTRUCTURING
THROUGH CHAPTER 11
INCLUDING SUBCHAPTER V
AND CHAPTER 12 FOR A
FAMILY FARM OR RANCH

DAVE CLAGGETT

OVERVIEW OF CHAPTER 7,
INCLUDING INTAKE, COMMON
EXEMPTION ISSUES, CREDIT
COUNSELING REQUIREMENT,
REAFFIRMATION AGREEMENTS,
AND 341 MEETING PREPARATION

DAN PAHLKE

CHAPTER 7 VERSUS
CHAPTER 13 &
BENEFITS OF FILING
CHAPTER 13 WHEN
DEBTOR MAY
QUALIFY FOR BOTH

BRIAN UTZMAN

DEBTOR'S PERSPECTIVE
ON THE AUTOMATIC
STAY, FILING CLAIMS,
AND CLAIM OBJECTIONS

NATHAN CHICOINE

CREDITOR'S PERSPECTIVE ON
NAVIGATING THE STAY, PROOF OF
CLAIMS, MEETING OF CREDITORS,
OBJECTIONS, AND RELATED ISSUES

RSVPs are encouraged.

Please email Rick at rick_entwistle@sdb.uscourts.gov by April 13, 2026 to RSVP.

IF YOU ARE A PERSON WITH A DISABILITY AND REQUIRE SPECIAL ACCOMMODATION TO PARTICIPATE,
PLEASE CONTACT THE BANKRUPTCY CLERK'S OFFICE AT 605-357-2400.

MEMBERSHIP DIRECTORY UPDATES ARE DUE BY MARCH 6, 2026

PLEASE EMAIL YOUR UPDATES TO
TAILYNN.BRADFORD@SDBAR.NET
WITH "DIRECTORY UPDATES" AS YOUR
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INCLUDE:

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The Power of Kindness in Trying Times

February 11, 2026

1:30 pm EST - 2:30 pm EST

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Hardwired for Connection: Making Sense of Attachment Styles

February 18, 2026

12:00 pm EST - 12:45 pm EST

[Register for this Webinar](#)



How to Communicate Effectively

March 11, 2026

1:30 pm EDT - 2:30 pm EDT

[Register for this Webinar](#)



Attention

2026 Membership Fees WERE DUE BY DECEMBER 31, 2025

Please include a 10% late fee in your dues amount.
Payments can be made online by logging in to your member hub
or mailed in for your convenience.



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**ATTENTION SOUTH DAKOTA ATTORNEYS:
How to sign up as an attorney volunteer
through the sd.freelegalanswers.org website**



1. Click on the ATTORNEY REGISTRATION tab.
2. Answer the questions to register and create your account.
3. Once the SDFLA administrator has approved your registration, you may log on to the website and choose the questions you would like to answer.

RICK MICKELSON
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Special Thanks to:

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Ericka Heiser, MBA, CVA
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Wishing you health, happiness,
and prosperity in 2026!
May this year bring
renewed energy
and exciting opportunities!



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ATTORNEY HEALTH & WELLNESS SOUTH DAKOTA LAWERS ASSISTANCE

Almost everyone, even lawyers and law students have experienced a time when a personal problem or crisis affected their life. Recognizing this, your State Bar, over the past several years, has instituted a variety of ways to support our members when they may need it most.

Go to <https://www.sdlawyerwellness.com/>, which is dedicated to providing you with the information you need about the programs and resources available to the members of our South Dakota legal community and their families.

Get Help Now!



PUBLIC NOTICE
REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE

The current appointment of Magistrate Judge Janki Sharma is due to expire on June 10, 2026.

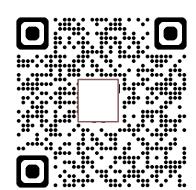
Magistrate Judge Janki Sharma serves in the Seventh Judicial Circuit.

The duties of a magistrate judge include conducting preliminary hearings in all criminal cases, acting as committing magistrate for all purposes and conducting misdemeanor trials. Magistrate judges may also perform marriages, receive depositions, decide temporary protection orders and hear civil cases within their jurisdictional limit.

Pursuant to UJS policy members of the bar and the public are invited to comment as to whether Magistrate Judge Janki Sharma should be reappointed to another four-year term. Written comments should be directed to:

Chief Justice Steven R. Jensen
Supreme Court
500 East Capitol
Pierre, SD 57501

Comments must be received by: March 10, 2026



UNIVERSITY OF
SOUTH DAKOTA

Fall Events:	
Aug 27-29	* Fall On-Campus Interview Round 1
Sept 19	Stay in SD Career Fair
Oct 23-24	* Fall On-Campus Interview Round 2
Spring Events:	
Feb 5-6	* Spring On-Campus Interview Round 1
TBA	Spring Career Fair
March 12-13	* Spring On-Campus Interview Round 2

- All fall and spring OCIs will take place at the ID Weeks Library due to renovations. Scan the QR code above or [visit HERE](#) to register for any OCI. You may need to create an account first. Watch [THIS VIDEO](#) to help you post your position(s).
- Email Teranie.Hill@usd.edu with any questions.



ANNOUNCEMENTS

Rebekkah Mouw

is excited to announce:

the opening of Mouw Law, a law practice serving Sioux Falls and surrounding communities.

Practice areas include family law, civil litigation, institutional harm, and personal injury. The firm emphasizes accessible representation, trauma-informed practice, systems-level problem solving, and non-hourly billing practices.

bekka@mouwlaw.com

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Rebekkah & Justin Mouw

are excited to announce the fiscal sponsorship of:

The Raven Community Fund

The Raven Community Fund is a community-powered access-to-justice nonprofit initiative, sponsored by the Beverly Ann Miller Foundation, a 501(c)(3), with the goal of removing financial and systemic barriers that prevent individuals and families in South Dakota from reaching safety, stability, and legal protection. Raven is rooted in the belief that the conspiracy is real, and we investigate unkindness. Raven exists to ensure no one navigates injustice alone.

Raven provides:

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Learn more & Donate: www.mouwlaw.com/raven-fund

Contact: Justin@ravencommunityfund.org

The South Dakota Supreme Court and seven Circuit Courts are recruiting for 2027-2028 Law Clerk applicants. If you are aware of any law students, either in-state or out-of-state, who may be interested in a one-year law clerk opening, please have them view the law clerk announcements online at <https://ujs.sd.gov/careers/>. There are currently law clerk openings in various locations, such as Pierre, Sioux Falls, Mitchell, Aberdeen, Brookings, Deadwood, and Rapid City.

- Supreme Court Law Clerk application deadline: May 29, 2026
- Circuit Court Law Clerk application deadline: May 29, 2026

This is a great opportunity to work for the South Dakota Supreme Court or the South Dakota Circuit Courts. If you have any questions, please contact the Unified Judicial System Human Resources Office at 605-773-4884.

Loos, Sabers & Smith, LLP
is pleased to announce
Erica M. Reber
as an associate attorney.

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Email: ereber@clslawyers.net

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as an associate attorney.

First Interstate Gateway Building
333 West Boulevard
Suite 400
P.O. Box 2670
Rapid City, SD 57709-2670

Phone – (605) 343-1040
Fax – (605) 343-1503
E-mail - sweyrich@bangsmccullen.com

www.bangsmccullen.com

2025 South Dakota Title Standards Now Available

The State Bar extends its sincere appreciation to the Title Standards Revision Committee and the South Dakota Legislative Research Council for their efforts in updating the South Dakota Title Standards. The 2025 Title Standards are available in Appendix A to SDCL Ch. 43-30.

The State Bar of South Dakota Title Standards are the work of the Real Property, Probate and Trust Section's Title Standards Committee. The Standards themselves are not the authority. Rather, they are in some sense a restatement of the law designed to aid the practitioner in determining the current status of practice in a particular area.

The Standards are based on existing South Dakota statutes and case law from South Dakota's courts and other relevant jurisdictions. The committee members' experience with the relevant authorities is crucial to drafting Standards.

A special thank you to State Bar members Eric Hanson, Rory King, Rachelle Norberg, David Larson, Jessica Larson, Erika Olson, and Justin Goetz (LRC), and Billy Stitz from the South Dakota Land Title Association, for their work in completing the revisions.

The State Bar of South Dakota extends its sincere gratitude to the members of the South Dakota Code Commission for their dedication and service to our legal community.

The work of the Commission is often performed behind the scenes, yet it remains the bedrock of our practice.

By overseeing the publication of the South Dakota Codified Laws and ensuring the South Dakota Codified Laws remain accurate, accessible, and up-to-date, the Commission provides an invaluable service to every attorney, judge, and citizen in our state.

The Code Commission includes:

Chair Margaret Vandemore Gillespie, Representative John Hughes, Senator Glen Vilhauer, Lindsey Riter-Rapp, the Hon. David Wheeler, and Legislative Research Council (LRC) staff Justin Goetz, Jeff Mehlhaff, and Kelly Thompson.

To the Commissioners and the staff at LRC who support them: Thank you. Your expertise and stewardship preserve the quality of our statutes and uphold the high standards of the South Dakota legal system.

The law is a living thing, and its preservation requires constant, careful stewardship. We honor those who take up that mantle.

Investiture Held for Supreme Court Justice Robert Gusinsky

A ceremonial investiture was held for South Dakota Supreme Court Justice Robert Gusinsky on Jan. 9, 2026, in Rapid City. Justice Gusinsky fills a vacancy on the Supreme Court with the retirement of Justice Janine M. Kern.

Justice Gusinsky was born in Latvia. After emigrating with his parents through Israel and Germany, he settled in California and became a U.S. citizen. Justice Gusinsky received his undergraduate degree in aeronautical engineering in 1990 from Embry Riddle Aeronautical University. He worked as a commercial airline pilot and flight instructor before changing course to pursue law. Justice Gusinsky received his juris doctor from the University of South Dakota School of Law in 1996.

Following graduation, Justice Gusinsky practiced as a trial lawyer at Lynn, Jackson, Shultz & Lebrun and later at Clayborne, Loos, Strommen & Gusinsky in Rapid City. He next served as an assistant U.S. Attorney with the U.S. Attorney's Office from 2007 to 2013, when Gov. Dennis Daugaard appointed him a circuit court judge for the Seventh Judicial Circuit. Justice Gusinsky became presiding judge of the Seventh Judicial Circuit in 2024.

Justice Gusinsky was appointed to the South Dakota Supreme Court by Gov. Larry Rhoden and began his duties on Dec. 9, 2025. He represents the Supreme Court First District, which consists of Custer, Meade, Lawrence and Pennington counties.

The State Bar
Congratulates
Justice Gusinsky!



Chief Justice Jensen, Justice Gusinsky, and his wife Rhonda



Justice Kern (Ret.), Justice Gusinsky, and Governor Rhoden





BAR STAR

SERIES

Kendall Roeder

This month's Bar Star is honored for their dedication and impact in the profession and community:

Kendall is recognized for his dedication to public service and commitment to helping others through his work as a public defender.

A military veteran and former First Circuit law clerk, he balances the demands of being a recent father of twins while serving clients in both metro and rural communities. His practice spans drug cases to complex criminal matters, and he is known for going above and beyond for clients and colleagues. Kendall's compassion, integrity, and service continue to strengthen the profession and the communities he serves.

What legacy do you want to leave through your service?



@Statebarofsouthdakota_1931



KENDALL ROEDER

Dear Members of the State Bar of South Dakota,

On behalf of the State Bar of South Dakota, we would like to congratulate Mark Haigh on his selection as a United States Magistrate Judge for the Western District of South Dakota.

With Mark's resignation from the office of President Elect, a significant opportunity now arises for our membership.

In accordance with Section 5.5 of the State Bar Bylaws (SDCL 16-17), the Board of Bar Commissioners is authorized to fill the vacant President Elect position.

The individual appointed will serve the remainder of the current term and assume the presidency during the State Bar Annual Business Meeting on **June 26, 2026**.

Eligibility

Any active member of the State Bar of South Dakota in good standing who meets the qualifications for elected officers under the Bylaws is eligible for nomination.

Nomination Process

If you are interested in being considered for appointment as President Elect, please submit a written statement of interest and/or qualifications to: john.richter@state.sd.us.

Deadline: **February 13, 2026**

Opportunity to Announce via State Bar Email

Any member wishing to make an announcement to the full membership will have the opportunity to do so through the State Bar's official email system.

Selection Process

The Board of Bar Commissioners will review all submissions and make an appointment by majority vote.

The appointment will be announced publicly following Board action.

For questions regarding the process, please contact John Richter at john.richter@state.sd.us.

We appreciate your engagement in this important matter and look forward to continuing the strong tradition of leadership within the State Bar of South Dakota.

Sincerely,

Board of Bar Commissioners

State Bar of South Dakota

CERTIFICATE OF COMPLIANCE

INSTRUCTIONS

The certificate of compliance for calendar year 2025 must be submitted to the State Bar of South Dakota by **January 31, 2026**.

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 2025 must file the compliance form with the State Bar no later than January 31, 2026. 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 members" in 2025, nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients. Thank you.

State Bar of South Dakota

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 1-15-25, you would insert the closing date of the most recent bank statement (i.e. 12-31-24).

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 SDCL 16-18-20.2. 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. It is not too late to perform monthly reconciliations through the date of completion of this form and monthly reconciliations must be performed prospectively.

Occasionally, trust accounts have an odd amount, such as \$4.54, which has been in the account for years 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 the 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 phone calls or letters trying to ascertain who signed the forms.

All lawyers must submit the compliance form no later than January 31, 2026. **Please submit compliance forms after reviewing your December bank statements.** If you have questions, please give us a call. Thank you.

2025 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 _____, 2026

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 2025. 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, 2025, 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)

_____ , 2026

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:

_____ , 2026

Date

STUDENT BAR ASSOCIATION

University of South Dakota Knudson School of Law

414 East Clark St.

Vermillion, SD 57069



Members of the State Bar of South Dakota,

Marshall M. McKusick, who served the legal profession and the University of South Dakota Knudson School of Law for nearly six decades, truly made a lasting impact. The resources he has provided have been of great benefit and value to law students, past and present, and will continue to have a positive impact on those entering the legal profession for generations to come.

Each year, in honor and celebration of Marshall M. McKusick's dedication and service to the legal community in South Dakota, the Student Bar Association recognizes an outstanding member of the South Dakota Bar for their contribution to the legal profession and the University of South Dakota Knudson School of Law.

The 2026 McKusick Award nominations are now open. Please consider submitting a nomination. The award will be presented at the State Bar Convention this June. Nominations may be submitted via e-mail to Tia.Vlasman@coyotes.usd.edu, or addressed to Tia Vlasman c/o Student Bar Association, University of South Dakota Knudson School of Law, 414 East Clark Street, Vermillion, South Dakota 57069.

We look forward to receiving your nominations prior to the due date of March 1, 2026.

Sincerely,
Tia E. Vlasman

A handwritten signature in red ink, appearing to read "Tia E. Vlasman".

*SBA President 2025-26
USD Knudson School of Law*

Tia Vlasman
President

Teagan McNary
Vice President

Abuk Akoi
Secretary

Miranda Schulte
Treasurer

Sydney Schad
ABA Rep.

Chris Skunk
SGA Rep.

Barbara Anderson Lewis Community Award



The Barbara Anderson Lewis Community Award recognizes Professionalism and Service within the legal community. This award is presented to a nominated member of the South Dakota Bar Association who has demonstrated exceptional professionalism within the legal community through daily interactions with other lawyers and who regularly fosters civility in the practice of the law. Additionally, this individual has devoted time and energy to their community through sustained volunteer work with nonprofit organizations that strive to make their community a better place to live and work. Part of this award is a monetary donation to the designated nonprofit organization in recognition of that service.

An open letter of nomination can be submitted to the following email address (Janepfeifle@gmail.com). It should be submitted not later than April 30 to be considered. Up to two additional letters of support can be submitted along with the nomination letter. The nomination letter must show how the nominated individual demonstrates professionalism and civility in the practice of law. Examples of these actions will provide how that is demonstrated. The Community portion of the nomination should include a description of the organization the nominated individual supports and in what roles. The nomination should also include the organization's name and address and a point of contact for an award presentation for the award winner.

Barbara Anderson Lewis graduated from the University of South Dakota School of Law in 1984 and was the first female attorney hired by Woods, Fuller, Shultz, and Smith in Sioux Falls, later becoming the first woman to be named a partner. Following law practice in Fargo, ND, Barbara joined Lynn, Jackson, Shultz, and Lebrun in Rapid City. Barbara was known for her professionalism and was a tenacious but fair opponent. She was impeccable in her choice of words and methods to be especially effective when dealing with her colleagues and opponents alike. Barbara was an active member of professional and community organizations throughout her life. She focused on mentoring younger attorneys to help them grow in their careers. Barbara Anderson Lewis passed away in July 2024 after being diagnosed with ALS.

MARCH
LAW FOR LUNCH

FINCEN REPORTING: FOLLOW-UP QUESTIONS

FinCEN Real Estate Reporting

This is your chance to submit questions that you have regarding the new FinCEN rules for non-financed residential real estate transactions that go into on March 1, 2026. Please send questions to Eric@dakotahomestead.com in advance for presenter review.

Featured Speaker:

Brad Hoeschen,
VP for Old Republic Title Insurance Company

**MARCH 18, 2026
12:30-1:30 P.M. CT**



REGISTER NOW

SDTLA Spring Seminar

Friday, April 17, 2026

12:30-4:00 P.M.

Chef Dominique's Banquet Facility (Shriver's Square)
230 S. Phillips Ave. LOWER LEVEL
Sioux Falls, SD 57104

SDTLA SUSTAINING MEMBERS: \$75.00
SDTLA MEMBERS: \$125.00
NON-MEMBERS: \$175.00

Join us for three hours of CLE and light refreshments.
Social event & networking to follow at PAve.

1:00 – 2:00 PM

“Mediation Essentials for Trial Lawyers”

Presenter: Lon J. Kouri, May & Johnson (Sioux Falls, SD)

2:00 – 3:00 PM

“Cybersecurity & Strategy for Trial Lawyers in the AI Era” *

Presenters: Kasey L. Olivier & Sean S. Porter, Vioris (Sioux Falls, SD)

3:00 – 4:00 PM

“The Value of Case Workshops / Preparing for Retrials” *

Presenter: George Johnson, Johnson Pochop & Bartling Law Office, LLP
(Gregory, SD)

*NOTE: Speakers are confirmed – presentation titles are subject to change.

REGISTER EARLY WITH SDTLA EXECUTIVE DIRECTOR LINDA STEVENS
Email: sdtriallawyersassoc@gmail.com

6th Annual Diversity and Inclusion Award

Sponsored by: Diversity and Inclusion Committee

The State Bar of South Dakota's Diversity and Inclusion Committee seeks nominations for the 6th Annual 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 inclusion 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 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.
- ***ELIGIBILITY RESTRICTION:*** The individual being nominated cannot be a current member of the Diversity and Inclusion Committee.

Nomination Criteria

Individuals may nominate a member of the State Bar of South Dakota by completed a Nomination Form and submitting it by email or mail as instructed.

Deadline

Nominations must be received by **Friday, April 3, 2026.**

Nomination Process and Presentation of Award

Each spring, the Diversity and Inclusion Committee will publish an invitation in the South Dakota State Bar Newsletter soliciting nominations for the Award. To be considered, nominations must be received no later than the published deadline. Each nomination should include a brief synopsis of the nominee's commitment to diversity, inclusion, and equal participation in the legal profession. A subcommittee of the Diversity and Inclusion Committee will then review each nominee's materials. The Committee will select, by majority vote, one or more recipients who best exemplify the eligibility criteria. All recipients of the Award will be notified in May. The Award will be presented during the annual State Bar Convention in June.

2026 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. Please attach a one-page synopsis of the nominee's qualifications and attributes.

Completed forms with synopses attached must be submitted to jsmith@ctnativelaw.com or

Diversity & Inclusion Award Committee
C/O Jillian Smith
Cedar Tree Native Law
929 Kansas City St
Rapid City, South Dakota 57701

by **April 3, 2026.**

2026
Joint

FAMILY/CRIMINAL LAW CLE

Program Chairs:

Alecia Fuller

Tom Keller

Amanda Müller

Renee Stellagher



xxxx

*More Information
to come*

xxxx

May 8, 2026

DoubleTree by Hilton, Downtown Convention Center |
Rapid City

REGISTER NOW



A busy day at the Capitol!



William Sulik (DPLS) and Melissa Frericks (ERLS)



Doug Abraham and Brett Koenecke of May Adam

The State Bar, ERLS, DPLS, and A2J hosted legislators for coffee and donuts, generously sponsored by Boyce Law and the May Adam firm. The day also included lunch with the Justices and Bar Commissioners, and a check presentation from the South Dakota Community Foundation in support of the Beyond Idea Grant to fund Rural Practice programs.



LIVE

COMMITTEE APPOINTMENTS WILL BE MADE IN APRIL
PLEASE SUBMIT YOUR COMMITTEE PREFERENCES BY MARCH 15, 2026

State Bar of South Dakota

COMMITTEE PREFERENCE

Form



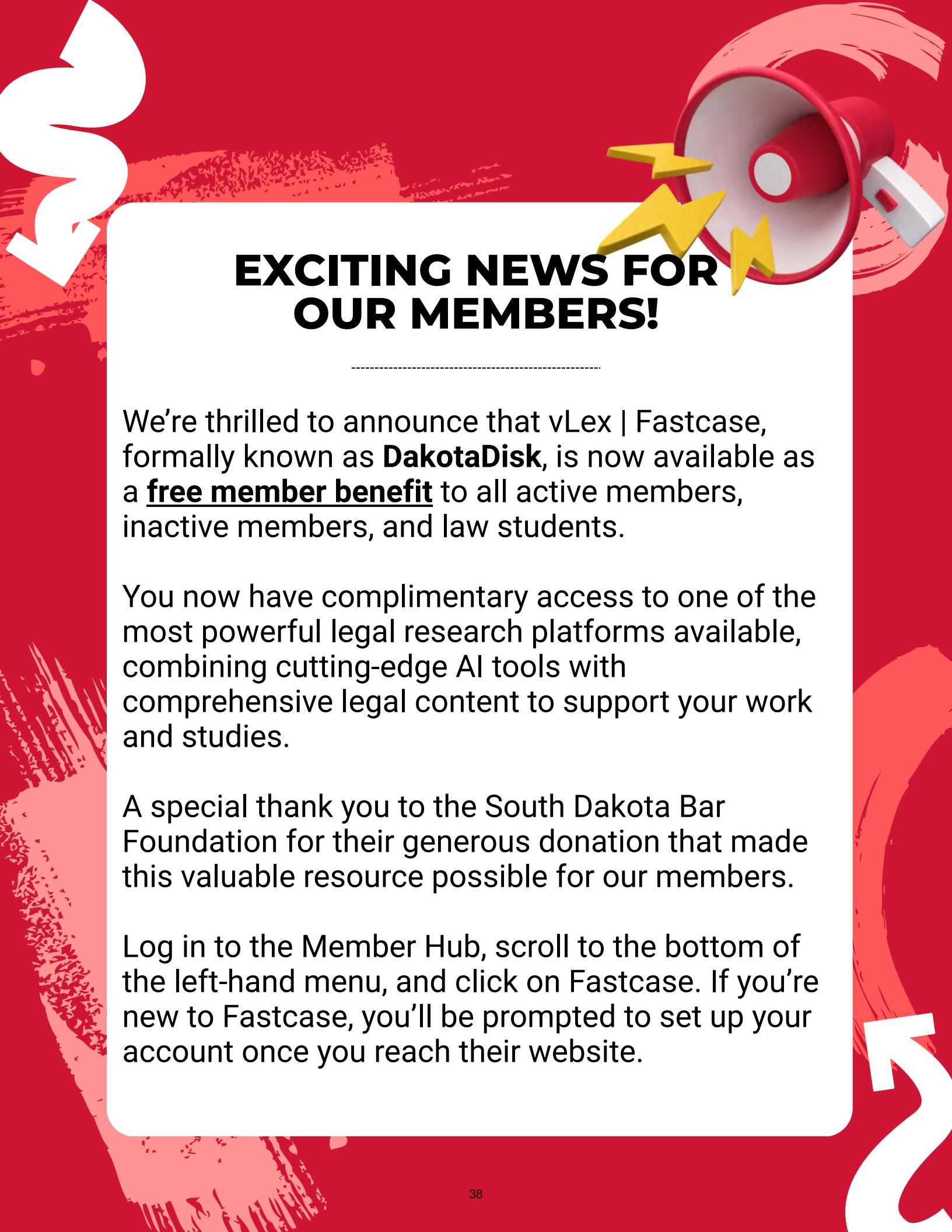
TO ACCESS THE
PREFERENCE FORM

**CLICK
HERE**

Only

1
MONTH LEFT

37
2026



EXCITING NEWS FOR OUR MEMBERS!

We're thrilled to announce that vLex | Fastcase, formally known as **DakotaDisk**, is now available as a **free member benefit** to all active members, inactive members, and law students.

You now have complimentary access to one of the most powerful legal research platforms available, combining cutting-edge AI tools with comprehensive legal content to support your work and studies.

A special thank you to the South Dakota Bar Foundation for their generous donation that made this valuable resource possible for our members.

Log in to the Member Hub, scroll to the bottom of the left-hand menu, and click on Fastcase. If you're new to Fastcase, you'll be prompted to set up your account once you reach their website.



Supreme Court

STATE OF SOUTH DAKOTA

Steven R. Jensen
CHIEF JUSTICE

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

To All Members of the State Bar:

In February 2025, the Mandatory CLE Study Committee recommended a proposal for CLE requirements for the South Dakota Bar. The Committee's recommendations included the following:

1. Members should receive 20 hours every two years.
2. The State Bar will continue to provide free CLE classes to allow members to obtain required CLE hours with limited or no additional costs.
3. Members will track their CLE hours and provide documentation showing attendance upon request.
4. State Bar staff will work with our member management system provider, GrowthZone, to provide assistance to members with CLE recordkeeping.
5. Members will be allowed to obtain CLE credits via online resources, and from sources other than State Bar CLEs.
6. The requirements should allow members to easily track compliance and allow for compliance at no cost, or very low cost.
7. Potential implementation of mandatory CLE requirements should occur no earlier than 2027.

The Committee's recommendations were considered by membership at the Annual State Bar Meeting in June, and following robust discussion of the issue, the majority of members in attendance voted to approve the recommendations.

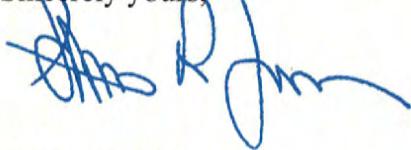
As the regulatory body for the legal profession in South Dakota, the Supreme Court is ultimately responsible for the decision on mandatory CLE, as well as the elements of such a program. Given the significant change mandatory CLE would represent, the members of the Court believe it is important that our consideration of mandatory CLE and the rules for such a program be transparent and that the Bar be given opportunities for ongoing comment and input. Toward that end, I have worked with the State Bar to appoint a committee to begin the process of drafting rules for the Bar, and ultimately the Court to consider. The members of the MCLE Rule Drafting Committee are:

- Justice Mark Salter, Chair
- Judge Craig Pfeifle, Retired
- Judge Julie Dvorak
- Rory King
- Dennis Duncan
- Jamie Simko
- Paul Bachand
- Justin Johnson
- Kristen Edwards
- Tamara Nash
- Rachelle Norberg
- Dean Neil Fulton, Ex-officio

We anticipate that the Rule Drafting Committee will develop proposed rules for mandatory CLE that will be available for comment and discussion at the June 2026 State Bar Convention in Sioux Falls. During this process, I would encourage you to reach out to the Committee members with questions or input. The Court does not at this time have a timeline in mind for considering whether to proceed with mandatory CLE or the rules for such a program, but any such program would not go into effect until at least 2027. I certainly intend to update the Bar on any timeline for the Court as this process moves forward.

I want to thank the members of the Rule Drafting Committee for agreeing to take on this project. We look forward to continued discussion and input from the Bar throughout the process.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Steven R. Jensen".

Steven R. Jensen
Chief Justice

STATE OF SOUTH DAKOTA

In the Supreme Court

I, Shirley A. Jameson-Fergel, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereto 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

3/5/25 day of Dec. 20 25

Shirley A. Jameson-Fergel
Clerk of Supreme Court

Deputy

IN THE SUPREME COURT

OF THE

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

DEC 31 2025

STATE OF SOUTH DAKOTA

Shirley A. Jameson-Fergel
Clerk

* * * *

**In the Matter of the
Discipline of
CHRIS MCCLURE,
as an Attorney at Law.**

JUDGMENT OF PUBLIC CENSURE

#31251

On October 14, 2025, the Disciplinary Board of the State Bar of South Dakota filed findings of fact, conclusions of law and a recommendation that respondent Chris McClure be publicly censured, which documentation, pursuant to SDCL 16-19-67, constitutes a formal accusation.

On November 17, 2025, respondent filed an answer to the formal accusation, said answer being an admission to the accusation.

The Court thoroughly considered the Board's findings of fact, conclusions of law and recommendation and respondent's answer, and the Court having determined that public censure is an appropriate discipline to be imposed upon respondent, it is therefore

ORDERED that Chris McClure be publicly censured.

IT IS FURTHER ORDERED that the Court adopts the following recommendations in their entirety:

1. That formal discipline be imposed upon Chris McClure in the form of a public censure with the following conditions:
 - a. That McClure provide the Disciplinary Board with monthly trust account records for a period of 24 months and thereafter as deemed necessary by the Board.

#31251, Judgment

- b. That McClure be responsible for reimbursing any of the firm's clients who are later discovered to have funds that should be held in the firm's trust account which are currently not accounted for.
2. The Board relied upon Discipline of Light, 2000 S.D. 100, 615 N.W.2d 164 and the unpublished Judgments of Censure issued to Mary Ash and Mark Welter both dated March 9, 2022, as having precedential value for their recommendation.
3. That respondent reimburse the State Bar of South Dakota for its expenses in investigating and prosecuting this matter as permitted under SDCL 16-19-70.2

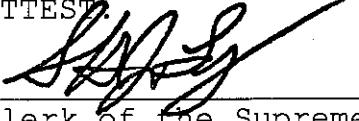
IT IS FURTHER ORDERED that respondent shall on or before January 30, 2026, pay Six-thousand, Four-hundred, Seven and 47/100 Dollars (\$6,407.47) to the State Bar of South Dakota as reimbursement of its itemized expenses allowable under SDCL 16-19-70.2, proof of said payment to be filed with the Clerk of this Court on or before March 2, 2026.

DATED at Pierre, South Dakota, this 31st day of December, 2025.

BY THE COURT:



Steven R. Jensen, Chief Justice

ATTEST


Clerk of the Supreme Court
(SEAL)

PARTICIPATING: Chief Justice Steven R. Jensen and Justices Mark E. Salter, Patricia J. DeVaney, Scott P. Myren and Retired Justice Janine M. Kern,

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

OCT 14 2025

Shay A Johnson-Layd
Clerk

* * * *

In the matter of Discipline of) FINDINGS OF FACT, CONCLUSIONS
CHRIS McCLURE, as an) OF LAW, RECOMMENDATION &
Attorney at Law) FORMAL ACCUSATION
)
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)
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)

Chris McClure (McClure) filed a self-report of trust account violations with the Disciplinary Board of the State Bar of South Dakota (Board). This came about as a result of an investigation that the Board was completing with respect to his partner, Eric M. Hardy ("Hardy"). An investigation into the trust account was conducted by the Board.

Pursuant to Notice of Hearing, the matter was first heard by the Board on June 17, 2025, at Rapid City, South Dakota. The Board was represented by its counsel, Thomas H. Frieberg, of Frieberg, Nelson & Ask, LLP, Beresford, South Dakota. McClure was present without representation. Due to the lack of adequate trust account records available to the Board, the record remained open and the hearing was continued.

Pursuant to Notice of Hearing, the continuation of McClure's hearing was held jointly with a continued hearing for Hardy. The hearing was held on September 18, 2025, at Deadwood, South Dakota. Both McClure and Hardy were advised of their right to separate hearings and waived that right to allow the Board to continue the hearings as they related to the firm's trust account. At the September hearing, the Board was represented by its counsel, Thomas H. Frieberg, of Frieberg, Nelson & Ask, LLP, Beresford, South Dakota. McClure was present and attended the hearing without counsel.

Pursuant to SDCL § 16-19-67 the Board submits the following Findings of Fact, Conclusions of Law, Recommendation and Formal Accusation.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

FINDINGS OF FACT

1. McClure is a 2008 graduate of the University of South Dakota School of Law.
2. McClure worked as a child support enforcement attorney for the State of South Dakota for approximately five (5) years following passage of the South Dakota Bar Examination.
3. From 2013-2017, McClure worked at the Swier Law Firm in Sioux Falls as an associate attorney doing family law work.
4. In 2017¹, McClure opened his own practice in Sioux Falls and was joined by Hardy shortly thereafter.
5. In the summer of 2017, the firm opened an office in Yankton, South Dakota. McClure remained in Sioux Falls and Hardy relocated to Yankton.
6. McClure indicates that he suffers from ADHD and autism although the autism has not been formally diagnosed.
7. The partnership does not have any staff, and the attorneys do all of their own work.
8. As part of the partnership arrangement, McClure was tasked with managing the business aspects of the firm, including the accounting and trust accounting. The firm's IOLTA trust account was located at Central Bank which did not have a location in Yankton.²
9. McClure testified that when he established his original trust account at Wells Fargo, he was advised that checks were not permitted for attorney trust accounts and thus, no checks were ordered for the Central Bank trust account.
10. Hardy would only periodically send retainer checks to McClure for deposit in the firm's trust account.

¹ McClure was uncertain if he started as a solo practitioner in 2017 or 2018. Hardy testified that their partnership started in 2017.

² The firm opened a new trust account at First Dakota National Bank following the June 2025 hearing.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

11. Hardy received cash retainers which were held in a safe at the firm's Yankton office.
12. After the Board hearing in June, Hardy took the cash retainers and deposited them in a new trust account the firm established at First Dakota National Bank, a bank which had locations in both Yankton and Sioux Falls.
13. The new trust account was suggested by the Board and established by the firm. This was done to ensure that the problems associated with the lack of adequate records for the Central Bank trust account could be isolated to the existing balance and the new First Dakota National Bank trust account would provide a clean start for new funds received by the firm.
14. The trust account records for the firm consisted of a spreadsheet McClure used to attempt to track deposits and disbursements from the trust account.
15. Board counsel and the assigned Board member, James Simko, paid personal visits to McClure on two occasions in an attempt to get clarification as to how the trust account was being managed.
16. McClure contended that his spreadsheet was kept current but the document history shows that the one provided to the Board was created in response to the Board's investigation.
17. Concurrent records of deposits, withdrawals and a running balance were not being kept for the firm's trust account.
18. Prior to the investigation by the Board, nearly all transfers from the firm's trust account to the operating account were in even dollar amounts; were completed electronically; did not note the client whose funds were being transferred; and were not supported by a client billing statement to justify the amount of the transfers. Client refunds were made with checks issued from the firm's operating account.
19. The transfer of even dollar amounts was clear evidence that transfers from the trust account to the firm's operating account were being completed to meet

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

operational needs rather than being transferred when earned.

20. Prior to the Board's investigation, it was clear that McClure had not read or familiarized himself with the statutory requirements for operating a trust account in South Dakota.
21. McClure knew that Hardy fully relied upon him to manage the trust account.
22. Based upon the lack of billing statements and individual client ledgers, it is not possible to know whether the balances reported by the firm for their clients are accurate.
23. McClure submitted annual Certificates of Compliance indicating that he had complied with the rules regarding client trust accounts although he had failed to do so.
24. McClure feels confident that he has identified the balances for each of the firm's clients who have funds in the trust accounts, but the Board lacks the same confidence.
25. The Board has not received any complaints indicating that client funds are missing.
26. The Board did not have any evidence to indicate that client funds were misappropriated.
27. As of the September 18, 2025 Board hearing, the firm was maintaining both the Central Bank and the First Dakota National Bank Trust accounts.
28. The firm's trust accounts currently identify the clients who the partners believe have funds in the accounts. Those amounts, if accurate, balance with the bank statements from the two accounts.

Based upon the foregoing Findings of Fact, the Board hereby makes the following:

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

CONCLUSIONS OF LAW

1. McClure violated Rule 1.15 of the Rules of Professional Conduct and SDCL 16-18-20.1 and 16-18-20.2 in not adequately safekeeping and accounting for the property of his clients by:
 - a. Keeping cash retainers and not depositing the same in the firm's trust account in a timely manner;
 - b. Failing to maintain complete records of the handling, maintenance, and disposition of all funds of clients which came into his possession;
 - c. Failing to keep accurate individual client trust ledgers for each client who had funds in the firm's trust account;
 - d. Failing to keep a separate trust account receipts and disbursements journal including columns for receipts, disbursements, transfers, and the account balance;
 - e. Failing to identify the client for whom transfers were made electronically from the trust account to the firm's operating account;
 - f. Using trust account funds for operations of the firm by transferring funds to the firm's operating account without matching the transfers to billing records for fees earned;
 - g. Failing to monthly reconcile the firm's bank statements to firm records; and
 - h. Filing annual Certificates of Compliance with the State Bar of South Dakota indicating that he and his firm had been compliant with the rules and regulations governing attorney client trust accounts.

Based upon the above Findings of Fact and Conclusions of Law, the Board hereby recommends that the Supreme Court discipline McClure as follows:

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

RECOMMENDATION

1. That formal discipline be imposed upon McClure in the form of a public censure with conditions as follows:
 - a. That McClure provide the Disciplinary Board with monthly trust account records for a period of 24 months and thereafter as deemed necessary by the Board.
 - b. That McClure be responsible for reimbursing any of the firm's clients who are later discovered to have funds that should be held in the firm's trust account which are currently not accounted for.
2. The Board relied upon Discipline of Light, 2000 S.D. 100, 615 N.W.2d 164 and the unpublished Judgments of Censure issued to Mary Ash and Mark Welter both dated March 9, 2022 as having precedential value for their recommendation.
3. That McClure reimburse the State Bar of South Dakota for its expenses in investigating and prosecuting this matter as permitted under SDCL 16-19-70.2.

Dated this 14 day of October, 2025.

STATE BAR OF SOUTH DAKOTA
DISCIPLINARY BOARD
James S. Simko, Chair

By: Thomas H. Frieberg
Thomas H. Frieberg, Counsel

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

CERTIFICATE OF SERVICE

The undersigned certifies that the Findings of Fact, Conclusions of Law, Recommendation & Formal Accusation was served on the 14th day of October, 2025, by sending a copy thereof, by certified mail, return receipt requested, to McClure at the following address:

Personal & Confidential

Mr. Chris McClure
Attorney at Law
102 N. Krohn Place, Ste. 201
Sioux Falls, SD 57101

Dated this 14th day of October, 2025.


Thomas H. Frieberg

STATE OF SOUTH DAKOTA

In the Supreme Court

I, Shirley A. Jameson-Fergel, 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 day of Dec 25.

Shirley A. Jameson-Fergel
Clerk of Supreme Court
Deputy

IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

DEC 31 2025

Shirley A. Jameson-Fergel
Clerk

* * * *

**In the Matter of the
Discipline of
ERIC M. HARDY,
as an Attorney at Law.**

JUDGMENT OF PUBLIC CENSURE

#31252

On October 14, 2025, the Disciplinary Board of the State Bar of South Dakota filed findings of fact, conclusions of law and a recommendation that respondent Eric M. Hardy be publicly censured, which documentation, pursuant to SDCL 16-19-67, constitutes a formal accusation.

On November 13, 2025, respondent filed an answer to the formal accusation, said answer being an admission to the accusation.

The Court thoroughly considered the Board's findings of fact, conclusions of law and recommendation and respondent's answer, and the Court having determined that public censure is an appropriate discipline to be imposed upon respondent, it is therefore

ORDERED that Eric M. Hardy be publicly censured.

IT IS FURTHER ORDERED that the Court adopts the following recommendations in their entirety:

1. That formal discipline be imposed upon Eric M. Hardy in the form of a public censure with the following conditions:
 - a. That Hardy provide the Disciplinary Board with monthly trust account records for a period of 24 months and thereafter as deemed necessary by the Board.

#31252, Judgment

- b. That Hardy be responsible for reimbursing any of the firm's clients who are later discovered to have funds that should be held in the firm's trust account which are currently not accounted for.
2. The Board relied upon Discipline of Light, 2000 S.D. 100, 615 N.W.2d 164 and the unpublished Judgments of Censure issued to Mary Ash and Mark Welter both dated March 9, 2022, as having precedential value for their recommendation.
3. That respondent reimburse the State Bar of South Dakota for its expenses in investigating and prosecuting this matter as permitted under SDCL 16-19-70.2

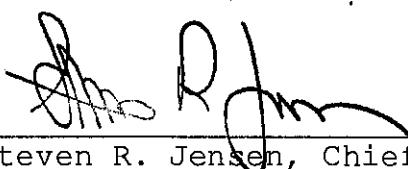
IT IS FURTHER ORDERED that respondent shall on or before January 30, 2026, pay Six-thousand, Six-hundred, seventy-one and 03/100 Dollars (\$6,671.03) to the State Bar of South Dakota as reimbursement of its itemized expenses allowable under SDCL 16-19-70.2, proof of said payment to be filed with the Clerk of this Court on or before March 2, 2026.

DATED at Pierre, South Dakota, this 31st day of December, 2025.

BY THE COURT:

ATTEST



 Steven R. Jensen, Chief Justice

Clerk of the Supreme Court
(SEAL)

PARTICIPATING: Chief Justice Steven R. Jensen and Justices Mark E. Salter, Patricia J. DeVaney, Scott P. Myren and Retired Justice Janine M. Kern,

IN THE SUPREME COURT

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

OF THE

OCT 14 2025

STATE OF SOUTH DAKOTA

Shay Johnson-Legg
Clerk

* * * *

In the matter of Discipline of) FINDINGS OF FACT, CONCLUSIONS
ERIC M. HARDY, as an) OF LAW, RECOMMENDATION &
Attorney at Law) FORMAL ACCUSATION
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Three complaints were filed with the Disciplinary Board of the State Bar of South Dakota (Board) against Eric M. Hardy, attorney at law (Hardy). An investigation was conducted by the Board and the complaints were consolidated for purposes of hearing and action by the Board.

Pursuant to Notice of Hearing, the matter was first heard by the Board on April 3, 2025, at Yankton, South Dakota. The Board was represented by its counsel, Thomas H. Frieberg, of Frieberg, Nelson & Ask, LLP, Beresford, South Dakota. Hardy was present and was represented by Kathryn J. Hoskins of Sioux Falls, South Dakota. Due to the lack of adequate trust account records available to the Board, the record remained open and the hearing was continued.

Pursuant to Notice of Hearing, the continuation of Hardy's hearing was held jointly with a continued hearing for his partner, Chris McClure ("McClure"), who was also under investigation by the Board. The hearing was held on September 18, 2025, at Deadwood, South Dakota. Both Hardy and McClure were advised of their right to separate hearings and waived that right to allow the Board to continue the hearings as they related to the firm's trust account. At the September hearing, the Board was represented by its counsel, Thomas H. Frieberg, of Frieberg, Nelson & Ask, LLP, Beresford, South Dakota. Hardy was present and attended the hearing without counsel.

Pursuant to SDCL § 16-19-67 the Board submits the following Findings of Fact, Conclusions of Law, Recommendation and Formal Accusation.

FINDINGS OF FACT

1. Hardy is a 2009 graduate of the University of South Dakota School of Law.
2. Hardy practiced in Nebraska and North Dakota prior to moving to Sioux Falls where he practiced with Christopherson, Anderson, Paulson & Fideler.
3. In 2017, Hardy formed a partnership with McClure, initially with an office only in Sioux Falls, South Dakota.
4. In the summer of 2017, Hardy moved to Yankton and opened a second office for the partnership.
5. Hardy has significant family ties to the Yankton community and resides there.
6. Hardy has three children and started having marital problems in 2022 which eventually led to a divorce.
7. Hardy acknowledged that the marital issues were impacting his practice.
8. Hardy's brother owns a counselling business in Yankton known as Sunstone Counselling and Hardy uses his brother's services as needed for counseling.
9. Hardy's practice focuses primarily on criminal and family law.
10. Hardy is also licensed to practice in Nebraska and does approximately 85% of his legal work in South Dakota and 15% in Nebraska.
11. The partnership does not have any staff and the attorneys do all of their own work.
12. Hardy has relied upon McClure to handle the business aspects of the firm, including the accounting and trust accounting. The firm's IOLTA trust account was located at Central Bank which did not have a location in Yankton.¹

¹ The firm opened a new trust account at First Dakota National Bank following the June, 2025 hearing.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

13. Between December 29, 2024, and February 4, 2025, the Board received three complaints of a similar nature related to Hardy, all related to the lack of progress on their cases and/or the lack of communication. The three complainants were as follows:
 - a. BF: concerns about a delay and lack of accounting for a retainer on a juvenile matter for BF's son;
 - b. RH: concerns about adoption proceedings that were delayed and had multiple errors in the filings that were completed; and
 - c. RS: concerns about lack of progress in a guardianship for RS's grandchild which was needed to protect the grandchild as the parents were not fit to properly care for the child.
14. The Board sent each of the complaints to Hardy for a response.

COMPLAINT OF BF

15. BF filed a complaint with regard to Hardy's representation of his son in a minor juvenile matter.
16. Hardy accepted a retainer in the amount of \$2,000.00 for the matter.
17. Upon completion of the matter, BF was unable to get an accounting or billing from Hardy for several months.
18. After BF filed his complaint with the Board, Hardy eventually instructed McClure to refund BF \$1,325.00 of the retainer and keep \$675.00 for fees for representation of BF's son.
19. No formal billing statement was ever provided to BF.
20. No formal time keeping was kept to create a bill for the services provided to BF's son.

COMPLAINT OF RH

21. RH filed a complaint with the Board due to Hardy's failure to complete an adoption in a timely manner.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

22. Hardy acknowledged that he had never done an adoption before being retained by RH.
23. Unacceptable delays occurred in getting the adoption completed. The process of getting the adoption completed, billing completed and unused retainer returned to the client took nearly two years.
24. Hardy's lack of knowledge on the adoption process impacted his ability to provide competent and timely legal services for RH.

COMPLAINT OF RS

25. In December 2022, Hardy was retained by RS to assist RS in being appointed as guardian for her granddaughter.
26. Hardy was able to get a temporary guardianship set up and was to assist RH in getting appointed as a permanent guardian.
27. RS had been slow in completing her mandatory guardianship course and due to circumstances wherein Hardy felt there was little risk in harm to the child with no permanent guardianship in place, the matter was not a high priority for Hardy.
28. Hardy acknowledged that the proceedings took too long and as of the April 3, 2025 Board hearing, Hardy was continuing to work with RS and had a hearing scheduled for the permanent guardianship request.

TRUST ACCOUNT

29. As part of its investigation, the Board subpoenaed the trust account records for the firm from January 1, 2024, to present for review prior to Hardy's hearing before the Board on April 3, 2025 hearing.
30. The records produced by Hardy for the April 3, 2025 hearing were not complete.
31. Hardy had little or no knowledge of the manner in which the trust account was being managed by McClure.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

32. Hardy received cash retainers from clients and would put the cash in a safe located in the firm's Yankton office.
33. As of the Board's June hearing with McClure, Hardy continued to keep client cash retainers in his safe.
34. After McClure's June hearing, the cash retainers were eventually deposited into the new trust account that Hardy set up for the firm at First Dakota National Bank, a bank which had locations in both Yankton and Sioux Falls.
35. A second trust account was suggested by the Board and established by the firm. This was done to ensure that the problems associated with the lack of adequate records for the Central Bank trust account could be isolated to the existing balance and the new First Dakota National Bank trust account would provide a clean start for new funds received by the firm.
36. The trust account records for the firm consisted of a spreadsheet McClure used to attempt to track deposits and disbursements from the trust account.
37. Prior to the investigation by the Board, nearly all transfers from the firm's trust account to the operating account were in even dollar amounts; were completed electronically; did not note the client whose funds were being transferred; and were not supported by a client billing statement to justify the amount of the transfers. Client refunds were made with checks issued from the firm's operating account.
38. The transfer of even dollar amounts was clear evidence that transfers from the trust account to the firm's operating account were being completed to meet operational needs rather than being transferred when earned.
39. The Central Bank checking account maintained by the firm did not have checks.
40. McClure testified that when he established his original trust account at Wells Fargo, he was advised that checks were not permitted for attorney trust

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

accounts and thus, no checks were ordered for the Central Bank trust account.

41. Prior to the Board's investigation, it was clear that Hardy had not read or familiarized himself with the statutory requirements for operating a trust account in South Dakota.
42. Hardy fully relied upon McClure to manage the trust account and filed his annual Certificates of Compliance without confirming that McClure was properly managing and documenting the trust account.
43. Based upon the lack of billing statements and individual client ledgers, it is not possible to know whether the balances reported by the firm for their clients are accurate.
44. Hardy submitted annual Certificates of Compliance indicating that he had complied with the rules regarding client trust accounts although he had failed to do so.
45. The Board has not received any complaints indicating that client funds are missing.
46. The Board did not have any evidence to indicate that client funds were misappropriated.
47. As of the September 18, 2025 Board hearing, the firm was maintaining both the Central Bank and the First Dakota National Bank Trust accounts.
48. The firm's trust accounts currently identify the clients who the partners believe have funds in the accounts. Those amounts, if accurate, balance with the bank statements from the two accounts.

Based upon the foregoing Findings of Fact, the Board hereby makes the following:

CONCLUSIONS OF LAW

1. Hardy violated Rule 1.1 of the Rules of Professional Conduct by not being competent to complete an adoption for RH.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

2. Hardy violated Rule 1.3 of the Rules of Professional Conduct in not acting diligently and promptly in his representation of RH and RS.
3. Hardy violated Rule 1.4 of the Rules of Professional Conduct in failing to communicate with the three complaining clients on the matters for which he had been retained.
4. Hardy violated Rule 1.15 of the Rules of Professional Conduct and SDCL 16-18-20.1 and 16-18-20.2 in not adequately safekeeping and accounting for the property of his clients by:
 - a. Keeping cash retainers and not depositing the same in the firm's trust account in a timely manner;
 - b. Failing to maintain complete records of the handling, maintenance, and disposition of all funds of clients which came into his possession;
 - c. Failing to keep accurate individual client trust ledgers for each client who had funds in the firm's trust account;
 - d. Failing to keep a separate trust account receipts and disbursements journal including columns for receipts, disbursements, transfers, and the account balance;
 - e. Failing to identify the client for whom transfers were made electronically from the trust account to the firm's operating account;
 - f. Using trust account funds for operations of the firm by transferring funds to the firm's operating account without matching the transfers to billing records for fees earned;
 - g. Failing to monthly reconcile the firm's bank statements to firm records;
 - h. Relying upon McClure to manage the firm's trust account without oversight from Hardy; and
 - i. Filing annual Certificates of Compliance with the State Bar of South Dakota indicating that he and his

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

firm had been compliant with the rules and regulations governing attorney client trust accounts.

Based upon the above Background, Findings of Fact and Conclusions of Law, the Board hereby recommends that the Supreme Court discipline Hardy as follows:

RECOMMENDATION

1. That formal discipline be imposed upon Hardy in the form of a public censure with conditions as follows:
 - a. That Hardy provide the Disciplinary Board with monthly trust account records for a period of 24 months and thereafter as deemed necessary by the Board.
 - b. That Hardy be responsible for reimbursing any of the firm's clients who are later discovered to have funds that should be held in the firm's trust account which are currently not accounted for.
2. The Board relied upon Discipline of Light, 2000 S.D. 100, 615 N.W.2d 164 and the unpublished Judgments of Censure issued to Mary Ash and Mark Welter both dated March 9, 2022 as having precedential value for their recommendation.
3. That Hardy reimburse the State Bar of South Dakota for its expenses in investigating and prosecuting this matter as permitted under SDCL 16-19-70.2.

Dated this 14th day of October, 2025.

STATE BAR OF SOUTH DAKOTA
DISCIPLINARY BOARD
James S. Simko, Chair

By: Thomas H. Friberg
Thomas H. Friberg, Counsel

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION & FORMAL ACCUSATION

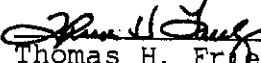
CERTIFICATE OF SERVICE

The undersigned certifies that the Findings of Fact, Conclusions of Law and Recommendation were served on the 14th day of October, 2025, by sending a copy thereof, by certified mail, return receipt requested, to Hardy at the following address:

Personal & Confidential

Mr. Eric M. Hardy
Attorney at Law
505 Broadway Ave.
Yankton, SD 57078

Dated this 14th day of October, 2025.


Thomas H. Freiberg

This anecdote was submitted for publication in the newsletter by Past President John Blackburn of Yankton. Thank you, John.

12/10/25

This happened years ago.

Law enforcement called me to request assistance.

A guy had a gun and hostages in a business in Yankton. He had been fired that day and was demanding his paycheck. A hostage escaped through the back door and called the police.

Law enforcement blocked off the streets and stationed a police sniper on top of a building across the street. Because of the police request, I went to a police car almost a block away, blocking the street. The police had him on the phone, urging him to surrender. They said they would let him leave. I told him they would not let him leave – they would have to arrest him. There was a conversation between the guy and me. He agreed to surrender, on the condition that I come to the front door of the business and go in the police car with him. As I walked down the middle of the blocked off street, seeing the sniper and recognizing that this guy is dangerous, I had no protection. As I walked close, he came out the door, raised the gun apparently to cock it -- “Oh no” -- however, he was pulling the gun open to show it was not loaded! Relief.

A police car sped up, we got in, and they took us to the police station.

The guy was booked, and I was court-appointed. A few days later, we were in the courtroom, and the guy ran out the door to escape, was caught, and served time. Upon release, he went to Texas, where he later died as a result of an altercation.

State Bar members are encouraged to submit items for potential publication in the State Bar newsletter by emailing Tailynn Bradford at tailynn.bradford@sdbar.net



**JUDICIAL QUALIFICATIONS COMMISSION
STATE OF SOUTH DAKOTA**

500 East Capitol Avenue
Pierre, SD 57501
Telephone 605-773-3474
Fax 605-773-8437

Robert Morris, Chair
Hon. Cheryle Gering, Secretary
Rory King
Raleigh Hansman
Hon. Bobbi Rank
Eric DeNure
Paul Bachand

Lori Grode, Executive Assistant
Email: Lori.Grode@ujs.state.sd.us

December 22, 2025

Notice of Judicial Vacancy

TO: All Active Members of the State Bar of South Dakota

FROM: Cheryle Gering, Secretary, Judicial Qualifications Commission

The Hon. Michael W. Day has announced his retirement effective June 8, 2026. His retirement will create a vacant Circuit Court Judge position (Position B) in the Fourth Judicial Circuit. The duty station for this position will be located in Belle Fourche, SD. As of July 1, 2025, the salary for a circuit court judge position in South Dakota is \$183,694.13. In addition, circuit court judges and their dependents are eligible to participate in the State of South Dakota's health insurance plan; circuit court judges participate in the State's defined benefit retirement plan. The Judicial Qualifications Commission is now taking applications for this position.

All lawyers and judges interested in applying should obtain the application form at <http://ujs.sd.gov/>, or contact Lori Grode at the State Court Administrator's Office. The application must be returned to the Administrator's Office and must be postmarked no later than **5:00 PM on February 13, 2026**. Applicants should make sure the application submitted is the 2018 revision.

You may also obtain the application form by writing or telephoning:

Lori Grode
State Court Administrator's Office
500 East Capitol Avenue
Pierre, SD 57501
Telephone: 605-773-3474
Email: lori.grode@ujs.state.sd.us

Or, visit <http://ujs.sd.gov/> for current job openings.

The Fourth Circuit is comprised of the following counties: Butte, Corson, Harding, Dewey, Lawrence, Meade, Perkins and Ziebach.



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June 26, 2026 | Sioux Falls, SD

Social Hour & Dinner to follow the State Bar Annual Convention

125TH ANNIVERSARY STEERING COMMITTEE

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Trent Arlint
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Judge Camela Theeler
Paul Cremer
Lindsey Riter-Rapp
Jack Hieb
Cassidy Stalley
Cortni Bowman
Judith Meierhenry

Judge Eric Schulte
Conrad Tanyi
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MARCH 13, 2026



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MORE INFORMATION TO FOLLOW

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PRESENTATIONS
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SPEAKERS

STATE BAR OF SOUTH DAKOTA



YOUNG LAWYERS SECTION

The AllOne Health App— Instant Access to Your Assistance Program

Taking care of your mental health should be simple, supportive, and always within reach. That's why we created the AllOne Health App—to make it easier than ever for you to access the care you need, when you need it.

Whether you're navigating life's challenges, looking for resources, or just need someone to talk to, we're here to help.

WHAT YOU'LL FIND INSIDE THE APP

Virtual Counseling Made Easy

Self-schedule virtual counseling sessions directly through the app.

Izzy, Your AI Mental Health Navigator

Receive guidance and personalized support in real time.

On-Demand Self-Help Resources

Explore self-guided therapy (iCBT), articles, videos, assessments, and tools.

Real Human Support

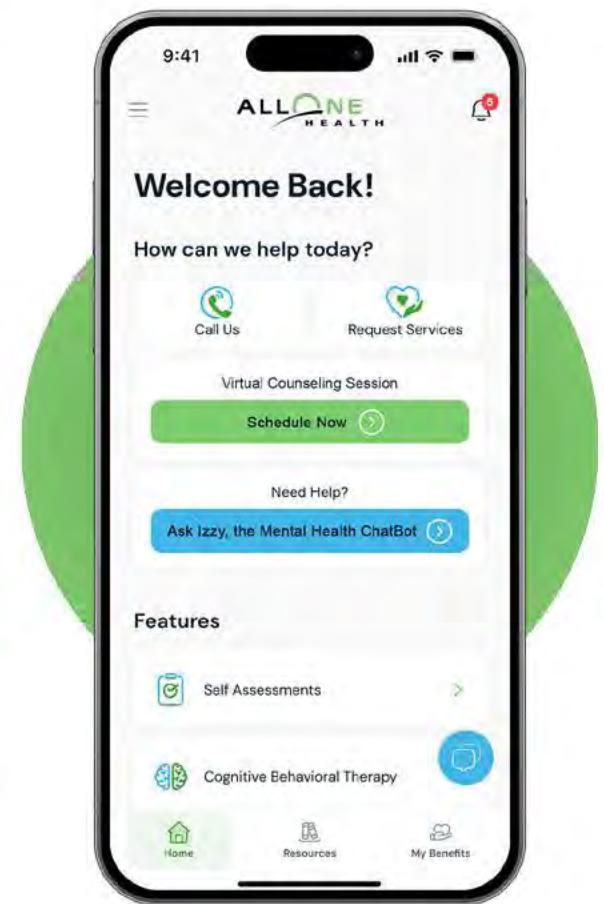
24/7 live assistance is always just a tap away when you want to speak to someone.

HOW IT WORKS

1. **Download the AllOne Health App** from the [Apple App Store](#) or [Google Play Store](#).
2. **Sign Up** using your existing member portal access code. You'll still have access to the member portal. However, the new AllOne Health App makes accessing care and requesting support easier and more convenient.
3. **Start Exploring** – Book sessions, chat with Izzy, and discover resources that support your whole health.

Download the App and Take the First Step

No matter where you are in your journey, support is here—because your mental health deserves care that's easy to access, always available, and built around you.



Contact AllOne Health

Call: (888) 243-5744

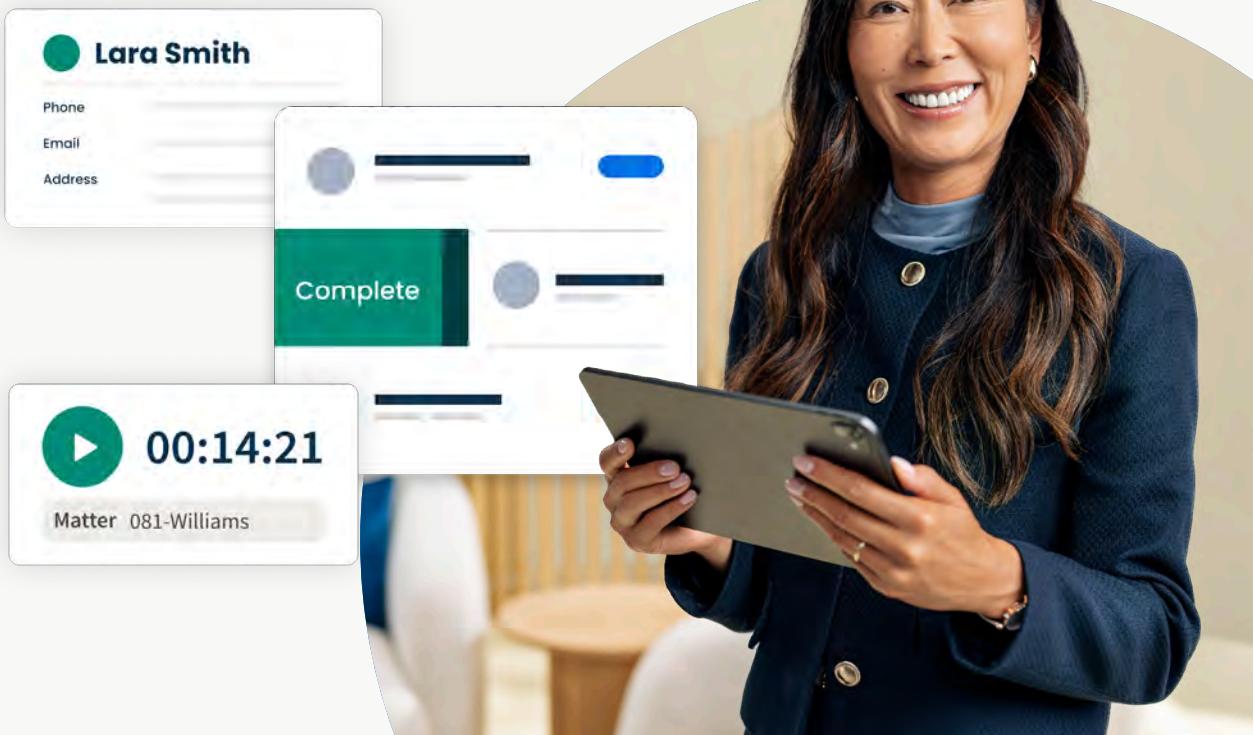
Visit: www.sandcreekapp.com

Code: sdhelp



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New Post Mark Rule = New Malpractice Exposure

Authored by:
Mark Bassingthwaighe, Risk Manager



For years a postmark would reliably document the date you mailed something, but not anymore. As of December 24, 2025, those glory days have passed due to recent USPS operational changes, and the USPS has formally acknowledged this. These changes create real malpractice exposure anywhere a statute, rule, or agency treats a postmark as proof of timely filing. In response, you should now assume that a postmark may be one or more days late, especially in rural areas, and adjust your internal practices accordingly.

What's Been Happening?

Since 2021, USPS has been consolidating nearly 200 local processing centers into about 60 large regional hubs, while also reducing the number of daily dispatches from local post offices. USPS has now codified in its Domestic Mail Manual that a postmark "does not inherently or necessarily align" with the date a piece of mail was deposited. This is not a small operational tweak; it fundamentally breaks the decades-long assumption that a postmark is reliable evidence of mailing.

Why Are Postmarks Now Frequently Delayed?

It's primarily due to two reasons:

1. Mail now travels much farther before being processed.

Mail used to be processed locally, often the same day it was dropped off. Now mail from many communities will travel hundreds of miles to a regional processing center before receiving a postmark. In fact, ten states will now have 100% of their mail processed out of state. (e.g., Vermont, West Virginia, Wyoming, and Mississippi)

2. Many post offices now dispatch mail only once each morning.

Under the new Regional Transportation Optimization (RTO) schedule, post offices more than 50 miles from a processing center now send outgoing mail once per day, typically early morning. Anything dropped off after that cutoff may not begin its journey until the next day.

Taken together, these changes mean a letter dropped off on a Monday afternoon may not be postmarked until Tuesday or Wednesday despite being timely mailed and the postal service acknowledges that this is to now be an expected outcome, not an anomaly.

What Should I Do Now?

If a lawyer mails something on time but receives a late postmark, they may still be held responsible for an untimely filing, which means the malpractice exposure from a missed deadline is very real. Making matters worse: rural lawyers and clients are going to be disproportionately affected. Fortunately, there are steps you can take to reduce the risk:

1. First, make sure that everyone at your firm understands that "mailed today" does not mean "postmarked today."
2. Second, use electronic filing whenever possible. If something must be sent through the mail, go to the counter and request a hand-stamped postmark; and never cut it close without first making sure the local post office is going to be open.

3. Third, consider using a priority mail service that provides tracking and timestamped acceptance.
4. Fourth, stop waiting until the last minute! Mail items several days in advance of any deadline, especially if your practice is in a rural area.
5. And finally, if you'd like to know more about the changes USPS has made and the impact on lawyers,



Authored by: Mark Bassingthwaigthe, ALPS Risk Manager

Since 1998, Mark Bassingthwaigthe, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaigthe 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. Bassingthwaigthe 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.



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THE HAGEMANN-MORRIS YOUNG LAWYER MENTORSHIP COIN PROGRAM

THE STATE BAR OF SOUTH DAKOTA YOUNG LAWYERS SECTION

I. PROGRAM OBJECTIVE

The Hagemann-Morris Young Lawyer Mentorship Coin Program strives to foster mentorship within the State Bar by pairing members of the Young Lawyers Section with Mentors who can provide candid and insightful guidance to Young Lawyers as they navigate the beginning stages of their legal career. The Program hopes to:

- Foster the development of the Young Lawyers practical skills and their knowledge of legal customs;
- Create a sense of pride and integrity in the legal profession;
- Promote collegial relationships among legal professionals;
- Improve legal ability and professional judgment; and
- Encourage the use of best practices and highest ideals in the practice of law.

State Bar members are members of the Young Lawyers Section until they reach age 40 or have practiced law for ten years, whichever occurs later.

II. HOW IT WORKS

1. Young Lawyers and Mentors sign up with the State Bar by completing the online forms linked below.
2. The YLS Board establishes a compatible mentorship pair.
 - The YLS Board creates mentorship pairs using the information provided in the applications and reaching out to attorneys believed to be a good fit for the Young Lawyer.
 - Young Lawyers may also request specific mentors or request Mentor Coins for an already-established mentorship.
3. The YLS Board will send the Young Lawyer and Mentor an informational packet with suggested conversations and activities. The Young Lawyer will also receive Mentor Coins.
4. The Young Lawyer may present a Mentor Coin to their Mentor as an invitation for mentorship and acknowledge their trust in such Mentor.

JOIN THE PROGRAM



<https://statebar.typeform.com/mentorship>

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 INVIOLENTE 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.

CREED OF PROFESSIONALISM AND CIVILITY

Preamble

A lawyer should demonstrate civility, personal courtesy, dignity, respect and professional integrity when interacting with the public and participating in the legal system. As we vigorously represent our clients, we must honor our obligations to the administration of justice, resolving disputes in a rational, diplomatic, and efficient manner. We must remain committed to the rule of law as the foundation for a fair and peaceful society.

While our State's Rules of Professional Conduct are instructive, they cannot address all of the various circumstances and conflicts that arise. The following standards are designed as a guide for lawyers and judges when interacting with each other, with litigants and with the public. Lawyers are expected to adhere to these standards as a commitment to justice and the rule of law.

Creed

As lawyers licensed to practice in South Dakota, admitted to the State Bar of South Dakota and/or admitted pro hac vice to appear in a matter before any Court in South Dakota, we will at all times adhere to the following:

1. We will treat participants of the legal system with civility, dignity and courtesy in court, as well as in all communication.
2. We will refrain from using hostile, demeaning or humiliating words in written and oral communications with adversaries.
3. We will continue to prioritize the inclusion and active participation of lawyers (and law students) from all backgrounds, identities and circumstances.
4. We will avoid impermissible *ex parte* communications with the court.
5. We will not intentionally mislead the court in oral or written communications.
6. In court, we will be punctual and prepared. We will not engage in conduct that is disorderly or disruptive and will instruct our clients and witnesses to act accordingly.
7. We will consult with other counsel concerning scheduling and deadlines prior to bringing such issues to the court. We will not unilaterally schedule hearings, depositions or similar matters.
8. We will not assert improper conduct on the part of other counsel without good cause and an adequate factual basis.
9. When agreements are reached, we will adhere to the agreement and accurately and in good faith memorialize the agreement in writing.
10. We will draft orders that accurately and completely reflect the court's ruling.
11. We will not time the filing or service of motions or pleadings with an attempt to unfairly limit another party's ability to respond.
12. We will explain to our clients that cooperation, civility and fair dealing are expected in the legal system.
13. We will advise our clients that we reserve the right to grant accommodations to other counsel in matters not directly affecting the merits of the case or prejudicing their rights.
14. Discovery requests will be drafted without harassment or placing undue burden on the other party. Further, we will instruct our clients that they must fully and honestly respond to discovery requests.
15. When there is a potential for settlement, we will timely confer with our client and other counsel and not purposefully delay negotiations.
16. We will in good faith stipulate to undisputed matters.
17. We will strive to abide by previously scheduled dates for trials, hearings, depositions, meetings and conferences.



State Bar of South Dakota: Association Group Health Plan

The South Dakota Bar Association offers a special group insurance plan for bar members and their employees through Avera Health Plans.

Who Qualifies?

Organizations with employees who are active members of the South Dakota Bar Association qualify.

Available Network Options

The following networks are available:

- Standard Network – Avera and other independent providers across South Dakota and northwest Iowa
- Direct Network – Avera-owned, -managed and -leased providers. Available to employers headquartered in Brown, Lincoln and Minnehaha counties.
- Extended Network – Along with our Standard network, members can take advantage of a Nationwide PPO network that offers access to a range of health care providers and facilities like Mayo Clinic.

Why Enroll?

The plan offers the following benefits:

- Lower premiums
- Options not available on small group plans, such as the more comprehensive “Ultra” plans
- The Nationwide PPO network provides access to a broad range of services at lower costs than out-of-network options.

Additional Details

- The SD Bar Association plan does not include pediatric dental and vision. If you have questions about how to get these benefits, an Avera Health Plans representative can explain your options.
- The Bar Association health plan renews annually on Sept. 1, but benefits follow a calendar year (January–December). If you enroll on April 1, your plan will follow 2024-2025 pricing until the next renewal on Sept. 1. If a member signs up for the plan mid-year, they will receive a credit for deductible and out-of-pocket expenses to cover them until the renewal date (Sept. 1).
- Prices and benefits are subject to change.

Learn More by Reaching Out

Josh Gilkerson

605-224-9223

JGilkerson@Acrisure.com

Or inquire with Avera Health Plans at
sales@averahhealthplans.org



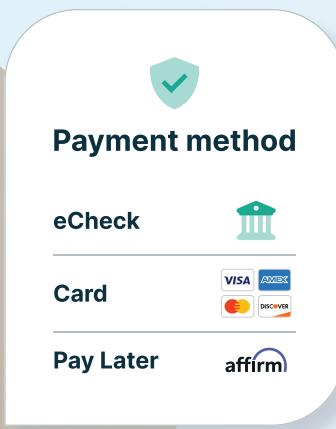
Avera
Health Plans



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State Bar of South Dakota

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State Bar of South Dakota Association

Avera Healthcare Plans

The following agents or agencies that are authorized to sell the State Bar Association Health Plan.

EASTERN SOUTH DAKOTA

Office Location

Mitchell & Yankton Area
Aberdeen Area
Sioux Falls Area
Sioux Falls & Brookings Area
Pierre, Mitchell & Sioux Falls Area
Watertown Area

Agency

Dice Financial
Mark Mehlhoff
Midwest Employee Benefits
McGreevy & Associates
Fisher Rounds & Associates
Freimark & Associates

Contact

Jacquelyn Johnson
Mark Mehlhoff
Dawn Knutson
John Lawler
Josh Gilkerson
Todd Freimark

WESTERN SOUTH DAKOTA

Office Location

West River

Agency

Black Hills Insurance Agency
Black Hills Insurance Agency
Carver Insurance

Contact

Dan Maguire
Everett Strong
Lisa Knutson

Questions on Eligibility, Rates, and Services?

Please contact the agency listed above based on your office location within the state for questions related to the Association Healthcare Plan.

Attorney Health & Wellness Resources

It's okay to ask for help



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rebecca.porter@sdlawyersconcerned.org

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- *USD Law Students & their household family members*



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Life is often busy, and responsibilities can feel overwhelming. Your Assistance Program is here to help save time and clear your mind with personal assistant referrals.

Our personal assistant team listens to your requests, conducts research, and provides comprehensive referrals, resources, and information to help with your needs. **Personal Assistant** referrals can include:

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- Grocery and meal delivery services
- Transportation, car maintenance and repair
- Travel research, planning and itineraries
- Self-care, spas, gyms, and local services
- Theatre, concerts, and sporting events referrals
- Children's sports, programs, and activities
- Donations and volunteer opportunities

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Visit: sandcreekeap.com

ALLONE
HEALTH

2026 Training Schedule



Sioux Falls (CT)

Friday, January 30

10am - 11:30am

March 17 & 18

8am-12pm

April 21 & 22

8:30am - 4:30pm

Monday, April 6

1pm - 2:30pm

Friday, May 22

8am-5pm

Monday, July 13

10am - 11:30am

August 4 & 5

8am-12pm

Friday, October 16

10am - 11:30am

Monday, November 16

8am-5pm

Rapid City (MT)

Friday, January 16

10am - 11:30am

February 11 & 12

9am-1pm

TBA

Monday, April 6

1pm - 2:30pm

April 6 & 7

9am-1pm

Monday, August 3

10am - 11:30am

July 30 & 31

9am-1pm

Wednesday, October 14

10am - 11:30am

October 5 & 6

9am-1pm

*Must be present for both days to receive certificate

*Must be present for both days to receive certificate

Virtual QPR Trainings

Monday, February 23

10am - 11:30am CT



Register or request a training.

www.helplinecenter.org/9-8-8/trainings

Thursday, August 20

3pm - 4:30pm CT

78 Training location will be announced upon registration

QPR (Question, Persuade, Refer) – 1 to 2 hour training

QPR stands for Question, Persuade and Refer, three steps **anyone** can learn to help prevent suicide. Just like CPR, QPR is an emergency response to someone in crisis and can save lives. In this free one to two-hour training, participants first learn about the nature of suicidal communications, what forms these communications take, and how they may be used as a stimulus for a QPR intervention.

QPR offers specialty modules in: School Health Professionals; Farmers; School Setting; Native American; Late Life Suicide; Residential; Law Enforcement & Emergency Service Professionals; and Youth. The Helpline Center provides a variety of mental health and suicide prevention trainings in South Dakota. We invite you to attend an upcoming training or schedule a training today to learn the steps of identifying and responding to mental health and suicide. For questions, please email training@helplinecenter.org.

Register for upcoming free QPR Trainings:

Download the 2026 Training Schedule HERE.
January 30, 2026 – Sioux Falls

February 23, 2026 – Virtual

Mental Health First Aid – 8 hour training

Mental Health First Aid teaches you how to identify, understand and respond to signs of mental illness and substance use disorders. This free training gives you the skills you need to reach out and provide initial support to someone who may be developing a mental health or substance use problem and help connect them to the appropriate care.

Two Learning Options

The Helpline Center provides a variety of mental health and suicide prevention trainings in South Dakota. We invite you to attend an upcoming training or schedule a training today to learn the steps of identifying and responding to mental health and suicide. For questions, please email training@helplinecenter.org.

Blended Learning. After completing a 2-hour, self-paced class, First Aiders will participate in a 4-hour, in-person, Instructor-led class.

In-person. First Aiders will receive their training as an 8-hour, Instructor-led, in-person course.

Who Should Take it

- Employers
- Police officers
- Hospital staff
- First responders
- Faith leaders
- Community members
- Caring individuals

What it Covers

- Common signs and symptoms of mental illness
- Common signs and symptoms of substance use
- How to interact with a person in crisis
- How to connect the person with help
- **NEW:** Expanded content on trauma, addiction and self-care



Mental Health First Aid offers specialty modules in: Higher Education; Military Members, Veterans & Their Families; Public Safety; Older Adults; and Rural Communities

Register now for the free MHFA Trainings:

February 11 & 12, 2026 – Rapid City

March 17 & 18, 2026 – Sioux Falls

THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE PROPOSED AMENDMENT TO SDCL 15-15-4)	NOTICE OF RULES HEARING
)	NO. 158
IN THE MATTER OF THE PROPOSED AMENDMENT TO SDCL 15-39-55)	
)	
IN THE MATTER OF THE PROPOSED AMENDMENTS TO SDCL 15-15A-8)	
and SDCL 15-15A-9)	
)	
IN THE MATTER OF THE PROPOSED AMENDMENT TO SDCL 16-18-20.2)	
)	
IN THE MATTER OF THE PROPOSED AMENDMENT TO SDCL 19-19-702)	
)	
PROPOSED ADOPTION OF A NEW RULE TO PROVIDE FOR THE DISCHARGE OF FINANCIAL OBLIGATIONS THREE YEARS FOLLOWING NOTICE OF DEATH OF A DEFENDANT)	
)	
PROPOSED ADOPTION OF NEW RULE TO PROVIDE REMOTE ACCESS TO TRUST DOCUMENTS FOR ATTORNEYS OF RECORD)	
)	
PROPOSED ADOPTION OF A NEW RULE ESTABLISHING MINIMUM QUALIFICATIONS OF CHILD CUSTODY EVALUATORS AND MINIMUM REQUIREMENTS OF REPORTS SETTING FORTH EVALUATOR'S FINDINGS AND RECOMMENDATIONS TO COURTS TO BE ADDED TO SDCL CHAPTER 25-4A CUSTODY AND VISITATION RIGHTS)	
)	
IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE APPENDIX TO SDCL 25-4A)	
)	

Petitions for the amendment of existing sections of the
South Dakota Codified Laws and proposals for the adoption of new

rules having been filed with the Court, and the Court having determined that the proposed amendments should be noticed for hearing, now therefore,

NOTICE IS HEREBY GIVEN THAT ON February 11, 2026, at 11:00 A.M., C.T., at the Courtroom of the Supreme Court in the Capitol Building, Pierre, South Dakota, the Court will consider the following:

1. Proposed Amendment to SDCL 15-15-4. Sale or destruction of exhibits if not collected when judgment final--Retention of necessary copies--Fee.

Whenever the decision or judgment of the court has become final, the clerk of courts shall give notice to the attorneys or parties of record by electronic or first-class mail that the non-scannable exhibits in the possession of the clerk, if not collected within thirty days, shall must upon order of the court be destroyed or sold at sale under chapter 15-19. If the exhibit has been scanned into the electronic record the original will be destroyed without notice unless the party or parties request the clerk to return the original exhibit. The request must be received within thirty days of the date the decision or judgment has become final. However, upon proper application to the court, the exhibit may be preserved as a part of the permanent record in the files. If an exhibit is a necessary part of the judgment or consists of a written instrument establishing the liability of a party against whom judgment has been rendered, a copy of it shall be made and retained by the clerk and the original canceled by endorsement across its face before being returned to the person entitled thereto as determined by the court. Unless the person entitled thereto as determined by the court shall furnish a true copy of such exhibit, he shall pay the fee of the clerk for making such copy.

Explanation for Proposal 1.

This proposed amendment is being submitted on behalf of the State Court Administrator.

Because the electronic record is the official court record, and the electronic version of court records is considered the "original" document there is no reason to retain scannable exhibits. This proposal allows the clerk to destroy the paper copies of exhibits without giving notice to the parties. The proposal puts the burden on

the parties to notify the clerk if they want the paper exhibits returned.

This proposal is being offered pursuant to SDCL 16-3-5.2. The rule is not based on any other state or federal rule or statute and it is not expected to affect other existing rules or statutes.

2. Proposed Amendment to SDCL 15-39-55. ~~Notice valid though refused by defendant--Further notice on failure of delivery.~~

~~Notice shall be valid although refused by the defendant and, therefore, not delivered. If the notice by certified or registered mail is returned undelivered, without refusal by the defendant, or if in any other way it appears that notice has not reached the defendant, the clerk shall issue, at the request of the plaintiff and at the expense of the plaintiff, such other or further notice as the court may order. If plaintiff elects not to pursue further notification of the defendant or if the further notification is unsuccessful after ninety days, the clerk may dismiss the action without prejudice.~~

Explanation for Proposal 2.

This proposal is being submitted on behalf of the State Court Administrator.

Currently if a defendant in a small claims action refuses to accept service by certified or registered mail the action can proceed to default judgment without actual proof of notification to the defendant. This change will require proof that the defendant received sufficient notice of the small claims action.

This proposal is being offered pursuant to SDCL 16-3-5.2. The amendment is not based on any other state or federal rule or statute and is not expected to affect other existing rules or statutes.

3. Proposed Amendments to SDCL sections 15-15A-8 and 15-15A-9.

SDCL 15-15A-8. Confidential numbers, financial documents, and name of child victim excluded from public access.

The following information in a court record is not accessible to the public:

- (1) Social security numbers, employer or taxpayer identification numbers, and financial or medical account numbers of an individual-;
- (2) Financial documents such as income tax returns, W-2's and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information-; and
- (3) The name of any minor child, that is not a defendant, alleged to be a victim of a crime in any adult criminal proceeding.

SDCL 15-15A-9. Filing confidential numbers, financial documents, and name of child victim in court record.

The following procedures apply to the filing of confidential information in court records:

- (1) Social security numbers, employer or taxpayer identification numbers, and financial or medical account numbers of an individual where required to be filed with the court shall must be submitted on a separate Confidential Information Form, appended to these rules, and filed with the pleading or other document required to be filed. The Confidential Information Form is not accessible to the public-;
- (2) Financial documents named in subdivision 15-15A-8(2) that are required to be filed with the court shall must be submitted as a confidential document and designated as such to the clerk upon filing. The Confidential Financial Documents Information Form appended to these rules shall must be attached to financial documents being filed with the court. The Confidential Financial Documents Information Form is not accessible to the public. The confidential financial documents will not be publicly accessible, even if admitted as a trial or hearing exhibit, unless the court permits access pursuant to § 15-15A-10. The court may, on its own motion, protect financial documents that have been submitted without the Confidential Financial Documents Information Form-;
- (3) Names of any child under eighteen years of age, that is not a defendant, alleged to be the victim of a crime in any

adult criminal proceeding ~~shall must~~ appear as ~~initials only~~
~~"minor" followed by a numerical identifier.~~ The names ~~shall~~
~~must~~ be provided on a separate Confidential Information Form; ;
(4) Court records in which a child under eighteen years of
age is identified as the petitioner or respondent in a
protection order proceeding ~~shall must~~ be treated as
confidential and excluded from public access; and
(5) Parties with cases filed prior to the effective date of
this rule, or the court on its own, may, by motion, protect the
privacy of confidential information as defined in § 15-15A-8.
Parties filing this motion will submit a completed Confidential
Information Form or Confidential Financial Documents
Information Form as appropriate.

Explanation for Proposal 3.

This proposed rule is being submitted on behalf of the State Court Administrator.

The reason for the proposal is to protect the identity of minors under the age of eighteen in criminal proceedings unless the child is the defendant. Currently only the identity of minors who are victims of crimes. This will protect the identify of all minors. Also, currently minor victims of crimes are identified by their initials. If the minor's parent is the defendant in the criminal actions using initials does not adequately protect the identity of the minor.

The proposed amendment is being offered pursuant to SDCL 16-3-5.2. The rule is not based on any other state or federal rule or statute and it is not expected to affect other rules or statutes.

**4. Proposed Amendment to SDCL 16-18-20.2. Attorney licensing--
Trust accounting records and procedures.**

The provisions of this rule apply to all members of the State Bar of South Dakota concerning trust funds received or disbursed by them in the course of their professional practice of law within the State of South Dakota. However, these provisions shall not apply to (1) full-time members of the Judiciary, i.e., Supreme Court Justices, Circuit Court Judges and Magistrate Judges, (2) nonresident attorneys

licensed to practice in South Dakota who comply with comparable trust accounting requirements in the state wherein they maintain their office, and (3) non-profit legal services organizations that file a copy of their annual independent audit with the State Bar, (4) non-resident attorneys licensed to practice in South Dakota who have not represented a South Dakota client during the reporting period, or (5) members who have been in an inactive status for the full reporting period. In addition, all lawyers required to disclose the absence of professional liability insurance as required pursuant to Rule 1.4(c) must sign the additional verification and certification of disclosure as reflected at the end of the Certificate of Compliance and Insurance Disclosure form.

MINIMUM TRUST ACCOUNTING RECORDS

The minimum trust accounting records which shall be maintained are:

(1) A separate bank account(s) ~~or accounts and, if utilized, a separate savings and loan association accounts or accounts.~~ Such account(s) must be at an institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund and which has a physical location shall be located in South Dakota unless the client otherwise directs in writing. All trust The account or accounts shall be in the name of the lawyer or law firm and clearly labeled and designated as a "trust account."

(2) Original or duplicate deposit slips, credit card receipts, and, in the case of currency or coin, an additional cash receipts book, clearly identifying:

- (a) The date and source of all trust funds received; and
- (b) The client or matter for which the funds were received.

(3) Original cancelled checks, or copies of both sides of the original checks produced through truncation or check imaging, or the equivalent, all of which must be numbered consecutively. If electronic disbursements or transfers are made, a record of all electronic disbursements or transfers, including for each disbursement or transfer, the date of the transaction, the amount of each transaction, the name of the client to whom the transaction pertains, the recipient of the funds involved in the transaction, the purpose of the transaction, and the signature of the attorney authorizing the transaction. A separate transaction must be completed for each electronic disbursement or transfer from a trust account.

(4) Other documentary support for all disbursements and transfers from the trust account.

(5) A separate trust accounts receipts and disbursements journal, including columns for receipts, disbursements, transfers, and the account balance, and containing at least:

- (a) The identification of the client or matter for which the funds were received, disbursed, or transferred;
- (b) The date on which all trust funds were received, disbursed, or transferred;
- (c) The check number, electronic confirmation number, or other documentation for all transfers or disbursements; and
- (d) The reason, such as "settlement," "closing" or "retainer," for which all trust funds were received, disbursed, or transferred.

(6) A separate individual client or matter file, ledger or computer file with an individual card, page or computer document for each client or matter, showing all individual receipts, disbursements, or transfers and any unexpended balance for the client or matter, and containing:

- (a) The identification of the client or matter for which trust funds were received, disbursed, or transferred;
- (b) The date on which all trust funds were received, disbursed, or transferred;
- (c) The check number, electronic confirmation number or other documentation for of all disbursements or transfers; and
- (d) The reason, such as "settlement," "closing" or "retainer," for which all trust funds were received, disbursed, or transferred. The billing or invoice number for each disbursement or transfer paying attorney's fees earned or costs advanced from funds held in trust for the client.

(7) All bank or credit union savings and loan association statements for all trust accounts.

MINIMUM TRUST ACCOUNTING PROCEDURES

The minimum trust accounting procedures which shall be followed by all attorneys practicing in South Dakota who receive or disburse trust money or property are:

- (1) The lawyer shall cause to be made monthly:
 - (a) Reconciliations of all trust bank or credit union savings and loan association accounts, disclosing the balance per bank or credit union, deposits in transit, outstanding checks or electronic disbursements or transfers identified by date and check number or electronic confirmation number, and any other items necessary to reconcile the balance per bank with the balance per the checkbook and the cash receipts and disbursements journal; and

(b) A comparison between the total of the reconciled balances of all trust accounts and the total of the individual client trust ledger cards, pages, or computer documents, together with specific descriptions of any difference between the two totals and reasons therefore.

(2) At least annually, a detailed listing identifying the balance of the unexpended trust money held for each client or matter.

(3) The above reconciliations, comparisons, and listing shall be retained for at least six years.

(4) The lawyer shall file with the State Bar of South Dakota a trust accounting certificate showing compliance with these rules annually, which certificate shall be filed annually between December 1 and January 31 on a form approved by the Disciplinary Board

AUDITS

The following shall be cause for the Disciplinary Board to order an audit of a lawyer's or law firm's trust accounts:

(1) Failure to file the trust account certificate required by this rule;

(2) A trust account check is returned for insufficient funds or for uncollected funds, absent bank error;

(3) A petition for creditor relief is filed on behalf of an attorney;

(4) Felony charges are filed against an attorney;

(5) An attorney is adjudged insane or mentally incompetent;

(6) A claim against the attorney is filed with the Clients' Security Fund;

(7) When authorized by statute or court rule;

(8) Pursuant to an investigation by the Disciplinary Board; or

(9) Upon court order.

COST OF AUDIT

Audits conducted in any of the circumstances enumerated above shall be at the cost of the attorney audited only when the audit reveals that the attorney was not in substantial compliance with the trust accounting requirements or when the audit was precipitated by the failure to file the trust account compliance report. It shall be the obligation of any attorney who is being audited to produce all records and papers concerning property and funds held in trust and to provide such explanations as may be required for the audit. Records of general accounts are not required to be produced except to verify that trust money has not been deposited thereto. If it has been determined that trust money has been deposited into a general

account, all of the transactions pertaining to any firm account will be subject to audit.

CERTIFICATE OF COMPLIANCE

INSURANCE DISCLOSURE

TO: The Secretary-Treasurer The State Bar of South Dakota 111 W. Capitol Ave. #1 Pierre, South Dakota 57501

Dear Sir:

I (We), _____, a member(s) of the State Bar of South Dakota certify that during the twelve-month period preceding the date of this report: (check the following items where applicable and/or fill in the blanks)

1. I 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 nonmember 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 (we) 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 _____, 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.

(Signature)

(Print or type the following information)

Full Name _____

Business Address _____

Date _____

5. My trust account(s) or the trust account(s) of the firm or association of which I am a partner or shareholder is at the _____ (name and address of banking institution) and bears the following name(s) and number(s) _____.

6. During the fiscal period ended _____ to the best of my knowledge I, 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:

Yes or No

(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."

*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. _____

(c) Original cancelled checks or copies of both sides of the original checks produced through truncation or check imaging, or the equivalent, for all trust disbursements.

(d) Other documentary support for all disbursements and transfers from the trust account.

(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.

(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.

(g) All bank statements for trust accounts.

(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.

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.

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) G *The undersigned lawyer(s) do not have professional liability insurance; or

(B) G The undersigned lawyer(s) have professional liability insurance, the name of the insurance carrier, policy number and limits are as follows:

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 Responding Lawyers Signatures:

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 Lawyers Signatures:

Date: _____

*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.

Explanation for Proposal 4.

The State Bar of South Dakota Disciplinary board ("Board") hereby submits the following proposal to amend certain provisions of SDCL 16-18-20.2 related to client trusts accounts maintained by attorneys in South Dakota.

Over the last several years, during investigations into allegations of attorney misconduct, the Board has observed that compliance with the trust accounting rules in SDCL 16-18-20.2 is lacking in many instances. While non-compliance has generally not involved theft from clients, the Board has concerns that the current rules do not contemplate the practice of many attorneys when it come to the increasing use of credit and debit card receipts, on-line banking and other forms of electronic financials transactions.

The proposed changes to SDCL 16-18-20.2 attempt to modernize the trust accounting rules to establish minimum record keeping requirements when electronic transactions such on-line banking are utilized. The proposed changes are intended to preserve the strict record keeping protections in the current rule and to ensure that the same standards are applicable to electronic transactions in trust accounts. The proposed changes also eliminated savings and loans from the rule and incorporate the ability to utilize and insured credit union.

The Board did not rely upon a state or federal rule or statute in suggesting the proposed changes. The trust accounting requirements of SDCL 16-18-20.2 are not addressed in the federal rule of the local federal rules. The standards and record keeping requirements in SDCL 16-18-20.2 are intended to ensure that

attorneys are complying with Rule 1.15 or the South Dakota Professional Conduct found in the Appendix of SDCL Chapter 16-18 and to ensure that clients funds are properly secured and accounted for by attorneys.

5. Proposed Amendment to SDCL 19-19-702. Testimony by expert.

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not:

- (a) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) The testimony is based on sufficient facts or data;
- (c) The testimony is the product of reliable principles and methods; and
- (d) The expert has reliably applied expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

Explanation for Proposal 5.

Information regarding each of the requirements of SDCL 16-3-5.3 is provided, below.

(1) The identity of the proponent or proponents of the change:

The proponent of the proposed amendment is the Evidence Committee of the State Bar of South Dakota. On June 20, 2025, State Bar members voted during the State Bar Business Meeting to submit the proposed rule change to the South Dakota Supreme Court for consideration.

(2) A detailed explanation of the change and the reasons for the change:

A detailed explanation of the change and the reasons for the change are as follows. The proposed amendment would bring SDCL 19-19-702 into line with the change to FRE 702 made in 2023. Generally, the proposed amendment to SDCL 19-19-702 would not alter the substance of the rule. The amendment simply clarifies the rule and reminds judges and litigants that SDCL 19-19-104(a) needs to be part of SDCL 19-19-702's analysis at each step. The amendment helps to clarify the language of the rule and to remove reliance on previous case law interpreting past versions of SDCL 19-19-702 or case law that is not consistent with SDCL 19-19-702.

(3) An analysis of the state or federal rule or statute that the change is based upon, if any;

(4) A comparison of the change with federal rules or local federal rules on the same subject, if any, and an explanation of any differences, if any; and

(5) An analysis of how the change affects existing rules or statutes:

FRE 702 was amended in 2023. The amendment to FRE 702 clarifies that the proponent of the expert witness must show the court by a preponderance of the evidence that the proposed expert's testimony satisfies the admissibility requirements set forth in the rule. This change comes after repeated decisions in which courts held the question of the sufficiency of the basis of the expert's opinion and the question of the application of an expert's methodology were questions of weight not admissibility. As described in the Advisory Committee Notes to FRE 702, these decisions were an incorrect application of both FRE 702 and FRE 104(a).

Under FRE 104(a), preliminary questions of admissibility are subjected to the judge being satisfied to a "preponderance-of-the-evidence standard." *Huddleston v. United States*, 485 U.S. 681, 687 n.5 (1988). This standard helps to ensure that, prior to admitting evidence to a fact finder, "the court will have found it more likely than not that the technical issues and policy concerns addressed by the Federal Rules of Evidence have been afforded due consideration." *Bourjaily v. United States*, 483 U.S. 171, 175 (1987). Rule 104(a) holds across all of the rules of evidence, but, as the Advisory Committee Notes to FRE 702 detail, the emphasis of the preponderance standard under FRE 702 is needed due to repeated misapplications of the reliability requirements in relation to expert testimony. Now, each of the three reliability tests clearly fall under the FRE 104(a) standard test, rather than the more permissive standards under FRE 104(b), conditional relevancy.

This will provide clarity when attacks on any of the three reliability standards are made. Now, rather than any attack automatically being relegated to an issue of weight and not admissibility, courts have guidance. Now, the court is explicitly reminded that the proponent of the testimony must establish the reliability requirements by that preponderance of the evidence standard before an attack can be deemed to go to merely weight rather than admissibility.

When a case contains competing experts who come to different

conclusions based upon contested facts, the 104(a) standard does not require the exclusion of one's side experts. Rather, the Advisory Committee Notes state that when the jury determines which of the contested facts are accurate, they can decide which expert's testimony to credit. The reliability requirement is not intended to be a "correctness" requirement.

Finally, FRE 702(d) has also been amended to clarify the fact that expert opinions must stay within what can be concluded from reliable application of the basis of said opinion and the methodology used to reach it. The Advisory Committee Notes point out that judges' gatekeeping role here is essential, as they are better equipped to determine if an opinion is within permissible bounds than members of the jury. This is particularly of note to testimony of forensic experts. The Advisory Committee Notes to Rule FRE 702 state:

"In deciding whether to admit forensic expert testimony, the judge should (where possible) receive an estimate of the known or potential rate of error of the methodology employed, based (where appropriate) on studies that reflect how often the method produces accurate results. Expert opinion testimony regarding the weight of feature comparison evidence (i.e., evidence that a set of features corresponds between two examined items) must be limited to those inferences that can reasonably be drawn from a reliable application of the principles and methods. This amendment does not, however, bar testimony that comports with substantive law requiring opinions to a particular degree of certainty."

The amended FRE 702 rule does not bring about new procedures or impose any new requirements. Rather, it is a clarification of previously existing law that was designed to emphasize that the expert's basis and methods must be reliable AND that they are then reliably applied to the facts of the case. It is different from SDCL 19-19-702 in that it highlights the 104(a) standard's applicability to these factors. Under current South Dakota law, the 19-19-104(a) standards should already be applied to these issues, but the text of the rule is less than clear.

BRIEF ANALYSIS OF SOUTH DAKOTA CASE LAW

This analysis is provided as a discussion of the proposed rule change pursuant to SDCL 16-3-5.3. Like most jurisdictions, South Dakota's case law appears to contain a history of liberally

permitting expert testimony at trial, with admission being the norm or expectation. Old case law, pre-dating SDCL 19-19-702, is still often cited today, however, that law does not necessarily track with the language of the current version SDCL 19-19-702. For example, in its most recent discussion of SDCL 19-19-702 in 2024, the South Dakota Supreme Court cited the current version of SDCL 19-19-702 and then referred to old case law that generally discussed the preponderance of evidence burden that had developed through the case law itself, not with reference to the rules of evidence. *Acuity v. A Mason Company, LLC*, 2024 SD 52, 11 N.W.3d 891 (citing *Tosh v. Schwab*, 2007 S.D. 132, ¶18, 743 N.W.2d 422, 428 (referencing older case law for the preponderance standard)).

This use of outdated case law, blended with SDCL 19-19-702 analysis, showed up recently in *Powers v. Turner County Board of Adjustment*, 2022 SD 77, 983 N.W.2d 594. There, the South Dakota Supreme Court analyzed a 702 issue and started by citing a long line of cases predating the adoption of SDCL 19-19-702, or anything like it. Included in this was the basis for much of the current problems identified by the committees who proposed the FRE 702 change at the Federal level. Specifically, in *Powers*, the S.D. Supreme Court cited to a 1996 case noting: “[t]he basis of an expert’s opinion is generally a matter going to the weight of the testimony rather than its admissibility.” *Id.* (citations omitted). This type of statement is not consistent with the old FRE 702 (or the current SDCL 19-19-702). However, it is even less consistent with the updated FRE 702. Ultimately, although the updated FRE 702 did not alter FRE 702’s substance, it is an express reminder of the court’s obligation to apply the preponderance standard at every stage of the expert process, instead of simply letting all experts through and leaving it to the jury to “weigh” the testimony. In short, it reminds the court to fill its role as a gatekeeper, not as a speed bump.

Optimistically, trial courts would use this change to become emboldened to fulfill the gatekeeping role the rule places upon them. Pessimistically, since the change would not make a substantive alteration and expert admission seems ingrained in the current practice, it may not have much of an impact. Realistically, the change would at least provide practitioners with a basis to argue that the trial court should fulfill its gatekeeping role and ignore any outdated case law authority indicating otherwise, which includes the consistent trial court fallback position of leaving it all for the jury to “weigh.”

6. Proposed Adoption of a new rule to provide for the discharge of financial obligations three-years following notice of death of a defendant.

Section 1. That a new rule be adopted as follows:

Any court-ordered financial obligation due and owing in a criminal proceeding, habeas corpus or abuse and neglect case, must be terminated three years following notice of death of the party owing the court-ordered financial obligation unless the court orders otherwise upon motion of the parties or victim. The Unified Judicial System shall provide the state's attorney, county auditor and victim, if applicable, notice of the date of death when that information is received.

Section 2. Effective date.

This rule is effective July 1, 2026.

Explanation for Proposal 6.

The proposed rule submitted by the State Court Administrator's Office is intended to provide a uniform response when an individual passes away owing court-ordered financial obligations in a criminal, habeas corpus or abuse and neglect case. Currently, that process is handled differently across the state. As of August 2025, and dating back to the inception of electronic court records, the UJS records indicate there is over 6 million dollars due and owing by an individual that has a date of death entered in the court record. The Supreme Court has been explicitly granted authority to promulgate rules in this area by the Legislature:

23A-47-5. Termination of financial obligation.

Pursuant to rules established by the Supreme Court, any financial obligation from an order more than twenty-five years old, deemed uncollectible, or following the death of an offender may be terminated.

The proposal's notice process is intended to ensure a victim owed restitution and the prosecutor for all court-ordered financial obligations would be apprised of the death and an opportunity to pursue other collection methods if applicable. This proposed change is not based on any other state or federal rule.

The proposed implementation of this rule would be July 1, 2026, to provide adequate time for implementation and training statewide for the UJS personnel.

7. Proposed Adoption of a new rule to provide remote access to trust documents for attorneys of record.

Section 1. That a new rule to be placed in ch. 21-22 be adopted as follows:

The Unified Judicial System shall provide remote online access to the court file to the attorney of record for a court trust or other trust, as indicated in the court record, through a secured online portal.

Section 2. Effective date.

This rule is effective July 1, 2026.

Explanation for Proposal 7.

This proposal is being submitted by the State Court Administrator's Office. Because trust cases are sealed, they are not available through the UJS eCourts attorney platform. This proposed change would allow the attorney of record, as indicated in the court record maintained by the Clerk of Courts, to access trust documents via that eCourts portal for attorneys. Without such access attorneys are required to contact the Clerk of Court to have a copy mailed or emailed to them. This change is not based on any other federal or state law.

Relevant Statutory Background:

21-22-28. Protection of privacy-Sealing and availability of documents

The privacy of those who have established a court trust or other trust shall be protected in any court proceeding concerning the trust. Upon the filing of any petition, the instrument on which the trust is based, briefs, and the entire court file including a trust's inventory, statement filed by any fiduciary, annual verified report of a fiduciary, final report of a fiduciary, and all petitions relevant to trust administration and all court orders thereon shall be sealed upon filing and may not be made a part of the public record of the proceeding, but are available to the court, to the trustor, to any fiduciary, to any enforcer, to any

beneficiary or the beneficiary's representative as provided in chapter 55-18, to their attorneys, and to such other interested persons as the court may order upon a showing of the need.

8. Proposed Adoption of a new rule establishing minimum qualifications of child custody evaluators and minimum requirements of reports setting forth evaluator's findings and recommendations to courts to be added to SDCL chapter 25-4A Custody and Visitation Rights.

Section 1. Custody and Parenting Time Disputes - Appointment of Custody Evaluator.

In any custody or visitation dispute between parents, the court may appoint a custody evaluator to assist the court in determining the best interests of the child. The Supreme Court may promulgate rules pursuant to §§ 16-3-1 and 16-3-2 to prescribe the authority, duties, appointment, and compensation of custody evaluators.

Section 2. Custody Evaluator Appointment at Party Request or on Court's Own Motion.

At the request of either party, or on the court's own motion, a custody evaluator may be appointed in any custody or parenting time proceeding. The parties may agree to use a custody evaluator, subject to approval by the court, or the court may designate a custody evaluator for the parties to use.

Section 3. Definitions.

The terms used in Sections 1 through 5 mean:

- (1) Custody evaluation: An evaluation based on personal interviews, interactions and observations of the parties and minor children that makes a recommendation to the court as to custody and parenting time for minors.
- (2) Custody evaluator: A person who meets the minimum qualifications set forth in Section 3 to perform custody evaluations.

Section 4. Qualifications of Custody Evaluator.

A custody evaluator must satisfy the following minimum qualifications:

- (1) File an approved application on the prescribed form with the presiding judge for the circuit in which the evaluator will provide custody and parenting time evaluation services;
- (2) Have a general knowledge of the South Dakota court system and its procedures in family matters;
- (3) Have a general knowledge of South Dakota family law, especially as applied to custody and parenting time issues;
- (4) Have a minimum of four hours of domestic violence training focusing upon the impact it has on parents and children exposed to violence;
- (5) Have a minimum of forty hours custody evaluation training with competence in the following areas:
 - (a) Definition of the purpose and roles of the child custody evaluator;
 - (b) Child development, including physical, cognitive, emotional, language, and social development, gender identity, sexual orientation, and the impact of parenting practices and other influences on children's development;
 - (c) The impact of parental separation, divorce, family restructuring, and interparent conflict on children, adults, and families;
 - (d) Family violence patterns and coercive controlling behaviors, the connection between intimate partner violence and child maltreatment, and the effects of exposure to family violence and coercively controlling behaviors on children;
 - (e) Parent-child contact problems and resist-refuse dynamics, including parental alienating behaviors, compromised parenting and child maltreatment;

- (f) Child and adult psycho-pathology, including mental health disorders, learning disorders, and developmental disorders;
- (g) Child maltreatment, including child neglect and physical, psychological, and sexual child abuse, the connection between child maltreatment and other adverse childhood experiences, and factors associated with resiliency from trauma and adversity;
- (h) Impact of relocation on children, adults, and families;
- (i) Resources available in the state to which the parties and the children can be referred for assistance;
- (j) Review of cultural considerations, bias, and ethical issues;
- (k) Utilization of psychological testing;
- (l) Updates on the current research;
- (m) Developmentally appropriate and empirically informed parenting plans, long distance parenting plans, methods of facilitating transitions between homes, and communication and information exchange;
- (n) Interviewing, record keeping, use of technology and problem-solving techniques applicable to the family setting;
- (o) Evidence-informed methods for interviewing adults and children, observing parent-child interactions, applying balanced procedures, maintaining objectivity, and interpreting data;
- (p) Recognizing the limits of reliability and validity of various sources of information; and
- (q) Best practices for report writing and testifying.

- (6) Committed to, and participate in, at least forty hours of continuing education courses focused on the areas outlined in subdivision 5 of this section every two years;
- (7) Be an attorney who is licensed to practice law in South Dakota; a psychologist who is licensed to practice in South Dakota; a psychiatrist who is licensed to practice in South Dakota; or any other South Dakota-licensed or certified professional with a master's degree or higher in social work, psychology, child development, counseling or behavioral sciences or a closely related field relevant to the duties of a custody evaluator; and
- (8) Have at least twenty-four months of professional experience working with families as outlined in subsection 7.

Section 5. Appointment Upon Consent of Parties.

Any person not meeting the educational requirements of subdivision 4(5) may be appointed as a custody evaluator by the court upon consent of the parties. The person is still required to comply with the training requirements of subdivision 4(2), (3) and (4).

Section 6. Form for Custody Evaluations.

The purpose of a custody evaluation is to provide the court with information it may consider in making decisions regarding custody and parenting time arrangements that are in the child's best interest. A custody evaluator shall consider and respond to the factors as set forth by the court in SS 25-4A-23, 25-4-45 and sections set forth above.

A custody evaluator shall:

- (1) Use interview, assessment, and testing procedures that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards;
- (2) Complete a fact-finding investigation;

- (3) Interview service providers and other collateral sources (teachers, psychologists, psychiatrists, doctors, nurses, neighbors, and others) who are knowledgeable about the child and family; and
- (4) Administer or obtain psychological evaluations only upon receiving a court order or an agreement between the parties. Psychological evaluations must only be administered and interpreted by a licensed expert.

Every custody evaluation report must contain the following:

- (1) The procedures employed during the evaluation;
- (2) The data collected as permitted by professional standards;
- (3) Testing results;
- (4) An explanation of any limitations in the evaluation or any reservations of the professional regarding the resulting recommendations;
- (5) Verification of each statement of material fact upon which the evaluator relied and the sources of verification, or alternatively, the inability to verify material facts and reasons therefore;
- (6) The amount of time spent with each party and child; and
- (7) Application and discussion of each of the factors set forth in § 25-4A-24.

Upon receiving notice of an appointment by the Court, the evaluator shall provide their anticipated timeline for commencement to the parties and to the Court. Following receipt of the anticipated commencement date, either party may request the assignment of a different evaluator. After commencement of the evaluation, a report must be completed within 120 days after appointment by a Court Order. If the evaluation will not be completed within 120 days, the evaluator must obtain written consent of both parties and a court order expanding the timeline. The evaluator shall send a status update to the parties at least once every 30 days outlining what needs to be completed or provided by each party.

Upon completion of the report, the evaluator shall provide the written report to the parties and file a copy of the report with the court.

Evaluators shall retain all documents and notes used during their custody evaluation process for at least three years after completion of the report.

Explanation for Proposal 8.

Information regarding each of the requirements of SDCL 16-3-5.3 is provided below:

(1) The identity of the proponent or proponents of the new Supreme Court Rule:

The proponent of the new rule is the Family Law Committee of the State Bar of South Dakota.

(2) A detailed explanation of the change and the reasons for the change:

Currently, there are no regulations regarding child custody evaluations despite them being relied upon by many circuit court judges and parties in custody cases. There are no required qualifications concerning the person conducting these evaluations, no criteria setting forth what the evaluator should consider when conducting an evaluation, and no procedure or requirements regarding the reports produced from these custody evaluations. However, we do have such requirements concerning family law mediators and parenting coordinators.

There is significant disparity as to the procedure and methodology utilized by those conducting evaluations throughout the state. Furthermore, some persons appointed to conduct evaluations administer instruments the evaluator is not qualified to conduct or interpret. Reports from the evaluators also greatly vary. Some provide an analysis of factors set forth by the Supreme Court of South Dakota and/or the South Dakota Legislature, while others do not.

The adoption of the proposed rule would provide uniformity within our courts concerning the custody evaluation process and clarify who may conduct evaluations when considering child custody matters.

(3) An analysis of the state or federal rule or statute that the change is based upon, if any; N/A

(4) A comparison of the change federal rules or local federal rules on the same subject, if any; and N/A

(5) An explanation of any differences, if any; an analysis of how the change affects existing rules or statutes:

SDCL 25-4-45 empowers our circuit court judges to make determinations concerning the custody of a minor child based upon the best interest of the child in respect to the child's temporal and mental and moral welfare. SDCL 25-4-45.1 through 25-4-45.8 provide further guidance as to matters that may or may not be considered when a court considers an award of custody. Statutory guidance as to what factors the court may consider when addressing a request for shared parenting is also set forth via SDCL 25-4A-23. While SDCL 25-4-45.3 acknowledges the utilization of a child custody evaluation when making custody determinations, there is no statutory guidance concerning the appointment of an evaluator, nor a directive as to what an evaluator should consider or report process utilized. This proposed rule would fill those gaps.

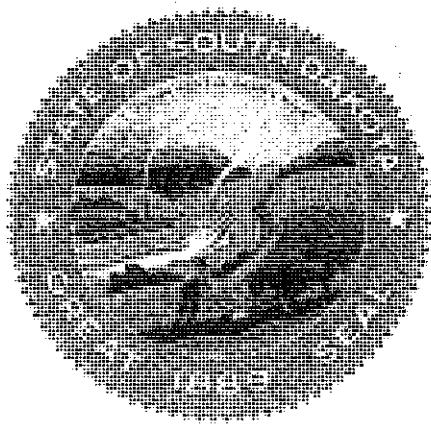
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Notice of Rules Hearing No. 158 – February 11, 2026

SUPREME COURT COMMISSION ON PARENTING TIME GUIDELINES FINAL REPORT

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 report its findings and recommendations to the Supreme Court, Governor, and the Legislature. In addition to the Commission's 2021 submitted recommendations to the Guidelines, it was also recommended a training be offered to circuit court judges regarding family law and the effect these situations have on the parties and their children, as well as the implementation and enforcement of parenting time guidelines. That training has been held at judicial conferences.

This year, 2025, the Commission reconvened to review the Guidelines and compiled a list of findings and recommendations.

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 2025 Commission on Parenting Time Guidelines consists of the following members:

Honorable Christina Klinger, Presiding Circuit Court Judge, Pierre (Chair)
Senator Tom Pischke, State Senator, Dell Rapids
Representative Brandei Schaefbauer, State Representative, Aberdeen
Shanna Moke, Childhood Development Professional, Sioux Falls
Kylie Riggins, Family Law Attorney, Rapid City
Kacy Kienholz, Custodial Parent, Pierre
Ryon Rypkema, Non-Custodial Parent, Caputa

MEETINGS/PUBLIC HEARINGS

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

July 28, 2025, via Zoom – Kick off Meeting;
September 19, 2025, Room 4112 – Capitol Building, Pierre, SD.

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

Aberdeen – August 18, 2025, at Ramkota Hotel
Sioux Falls – August 25, 2025, at Holiday Inn City Centre
Rapid City – September 15, 2025, at Ramkota Hotel

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.

- The Guidelines are too narrowly tailored and are interpreted as ceilings rather than starting points, often being used to limit a parent's involvement.
- The Guidelines do not provide sufficient definitions, practical tools, or structured guidance to help parents and courts create arrangements that preserve and strengthen child's relationship with both parents.
- The Guidelines should not apply in situations involving domestic violence and that age categories should reflect developmental stages rather than safety concerns.
- Parenting Guidelines should allow for increased parenting time beyond the ages of three to five.
- The Guidelines should include a provision for vacation for children under age three.
- The Guidelines needs stronger language against parental alienation, clarifying sibling references to include half-siblings, and revising language around the concept of maintaining the status quo.
- There needs to be a stronger emphasis on shared parenting and joint physical custody.
- The Guidelines should be updated to encourage maximizing meaningful time with each parent, while accommodating the unique circumstances of each family that would provide the courts and families with a framework that promotes consistency, fairness, and the child's best interests.
- The Guidelines should provide standardized parenting plan templates online to help parents and courts create clear, detailed and enforceable plans.
- Provide a definition of "Shared Parenting."
- The Guidelines should recommend co-parenting platforms such as OurFamilyWizard or CustodyXChange for scheduling, communications, and documentation to help reduce misunderstandings and conflict.
- The Guidelines should include a definition for joint physical custody.
- Consider adding culturally or religiously significant holidays.
- Concerns were raised regarding communications between parents through social media. A suggestion was to clarify the definition of "social media" in the Guidelines to ensure privacy and to broaden its scope. Provide guidance on how access to social media should evolve as children age.
- Clarify that children shall have only one primary cell phone which both parents can access for communication purposes.
- There should be additional time granted for parenting time when a child is in the 0-5 age range.
- The minimum should be equal joint physical custody and custody evaluations need to be more financially accessible including state-funded evaluations with repayment plans.
- South Dakota lags behind in shared parenting rights leaving the father with extreme legal fees an unaffordable childcare support.
- 180 days is arbitrary and outdated.

- 6 day abatement is not enough and does not allow adequate credit for overnights with children.
- Concerns of mandatory mediation order and it is an onerous burden to require a custody evaluation.
- Different shared parenting schedules should be included to give parents an idea of how time can be split.
- Holiday time for parents residing over 200 miles apart needs to be more feasible with travel time.
- Juneteeth will eventually fall on the same day as Father's Day and clarify which holiday takes precedence.
- Halloween should be removed because it's such a short time frame and custody should go to whichever parent is exercising time that day.
- Christmas break should be split in two equal halves to allow parents to travel for the holidays and remove the two 48 hour holiday periods entirely.
- The Guidelines contain an error in the rotation – the parent with July 4 also gets Labor Day weekend.
- The Guidelines has Parent 1 for Mother's Day. Clarify who is Parent 1 and who is Parent 2. This can potentially be problematic for same-sex parents.
- Parenting time should be uniform regardless of differences in age.
- Require both parents to use the same daycare provider.
- The vacation with 3-5 year olds provision conflicts with holiday language and needs clarification.
- Remove language "whichever is applicable" in the Guidelines.
- Remove Juneteenth, as it is rarely celebrated.
- Add a provision that if kids have 5 or more days off of school, that time goes to the non-custodial parent.
- Right of first refusal should be added to the Guidelines.
- Shared parenting needs to be set forth more general guidelines such as expectations of sharing of expenses, typical plans, etc.
- Remove the provision that permits children to miss school to spend time with noncustodial parent who lives more than 200 miles apart, because it may unintentionally conflict with truancy laws and doesn't account for absences due to medical appointments. The Guidelines should align with SD's compulsory attendance laws.
- Children should return home the night before holiday break concludes, because it can be difficult to return child the morning before school resumes.
- Summer parenting time needs to be more balanced. Consider splitting summer parenting time more evenly, such as a 60/40 or 70/30 split to allow for meaningful time without interfering with school or violating attendance policies.
- Clarify and strengthen advance notice requirements for additional parenting time. The term "preferably 30 days" is vague and unenforceable. Change to a minimum of 30 days advance written notice.

- Require enforceable notice for extended summer parenting time. Require that 60 days notice is mandatory and not just recommended with clear consequences if not followed. Written notice should be required to prevent disputes.
- Include a section encouraging parents to communicate and collaborate on driver's education, learner's permits, or teen driving responsibilities.
- Revise extended summer parenting time for children ages 16 and older to allow for teen's preferences and participate in athletic commitments or academic programs.
- Clarify the Guidelines must be followed unless otherwise ordered by the Court, and there needs to be clear consequences.
- Include more educational information regarding the importance of civility and co-parenting between parents, positive communication, and involvement of both parents.
- Teens and mature children should be allowed to state their parenting time preferences.

COMMISSION FINDINGS

The Commission conducted public hearings. Members discussed current research and materials on the subject matter in addition to parenting guidelines from other jurisdictions. In working through this process, the Commission believes there are revisions needed 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.
- 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, ensuring the best interests of the 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 revisions to the Guidelines are attached to this report. Revisions to the Guidelines are reflected herein: additions denoted by underlining in red and deletions indicated by strikethrough in red. A summary of the changes are as follows:

- There is a need to better emphasize that the Guidelines represent the minimum standards rather than defaults, as some circuits have historically applied the Guidelines as maximums.
- Amend the Guidelines to use more clear and concise language laying out enforcement of the guidelines, and instructions how to object. A direct link to the objection form is provided.
- The Guidelines should support overnights with very young children when both parents can provide nurturing and routine within a stable environment and should be adjusted as needed to support the child's comfort and development.
- Increase custodial overnights on a weekend from eighteen hours to twenty-four hours.

- Add a provision that should Juneteenth and Father's Day land on the same day, Father's Day prevails (will not occur until 2033).
- Revise time on Mother's Day and Father's Day to reflect "Mother" and "Father" instead of "Parent 1" and "Parent 2."
- Clarify that holidays take precedence over both birthdays and weekends.
- Include a provision that parents are encouraged to coordinate vacation plans and include a solution in the event there is a dispute.
- Provide clear language regarding the opportunity for mediation and provide a link to court appointed mediators.
- Update all links to the UJS website to reflect UJS's updated website.

CONCLUSION

Based on public feedback, the Commission found that the prior changes to the Guidelines have been well received, particularly the inclusion of charts for holiday scheduling and sections addressing infants at various developmental stages. There has been positive feedback regarding shared parenting options. The Commission believes that the Guidelines represent a strong step forward in creating consistent standards across the circuits and are significantly more inclusive and uniform than prior guidelines.

**9. Proposed Amendment to the Appendix of SDCL Chapter 25-4
Custody and Visitation Rights.**

SOUTH DAKOTA PARENTING GUIDELINES



Effective July 1, 2026

The South Dakota Parenting Guidelines are located
on the South Dakota Legal Self-Help Center found at
<https://uis.sd.gov/self-help/>

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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Established by the 2025 Commission on Parenting Time Guidelines,

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> <https://ujs.sd.gov/self-help/family-law-help/> 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.~~

Parental Agreements Encouraged:

Parents are both allowed and encouraged to work together and create a parenting plan for their child(ren) after giving meaningful consideration of the needs and abilities of the child(ren) and parents involved in their specific situation. These guidelines are intended to provide guidance regarding the minimum parenting time children should have with parents in order to ensure meaningful contact and allow for the parent/child relationship. Parents should agree to parenting time they find reasonable and in the best interests of their children. These Parenting Guidelines are intended to provide guidance and fill in the gaps when parents are unable to reach an agreement and are not intended to prevent agreements.

If the parents are unable to agree on a parenting plan, these Guidelines become a mandatory initial parenting plan and are enforceable as a court order upon commencement 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>. This is a court order that will remain in place until further order of the court or until the parents agree otherwise.~~

Objection:

~~If either parent disagrees with the use of these guidelines as the initial parenting time plan, that parent has a right to object. A written objection shall be filed with the clerk. A form for the objection (form 372) can be found here: <https://ujs.sd.gov/media/od3jgnnd/ujs-372-objection-to-order-implementing-guidelines-9-2022.pdf>. Upon filing of the objection, a hearing will be scheduled within 30 days. Following the hearing, the court will issue an order for temporary custody. To assist the Court in formulating an interim order, parents should be prepared to concisely convey the degree of each parent's participation in the child's life and provide information regarding the provisions set forth in SDCL 25-4-45.~~

~~When constructing an interim parenting time schedule the Court will work to maximize the time each parent has with the child consistent with each parent's demonstrated participation in the child's life and ensuring the child's welfare. When constructing a parenting plan, the Court may consider these guidelines, as guidance regarding the minimum exposure recommended for children with parents in order to ensure meaningful contact and allow for the maintenance of the parent/child relationship. SDCL 25-4A-13.~~

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Instructions and forms regarding enforcement can be found at:

<https://ujslawhelp.sd.gov/enforcement.aspx> <https://ujs.sd.gov/self-help/family-law-help/under Shared Parenting Guidelines & Plans>.

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 ~~Overnights with very young children can establish and maintain meaningful bonds between the child and both parents and should occur when both parents can provide nurturing and routine within a stable environment. The schedule should be adjusted as needed to support the child's comfort and development.~~
- 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. ~~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, 2-hour parenting time periods per week and one weekend parenting time period for 6 hours; or~~
- ~~(2) In situations where both parents have been engaged in an ongoing caregiving 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:~~

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- (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 24~~ 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 24~~ 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 spend 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 24~~ hours; or
- (3) Children spend 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

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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 applies 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 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.
- 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 24- hour periods while the nursing mother sleeps or works, that arrangement should/ shall continue.

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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	<u>Parent 1</u> <u>Mother</u>	<u>Parent 1</u> <u>Mother</u>
Memorial Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
Juneteenth (6/19)	<u>Starts at 8:00 a.m. on 6/19 and ends 8:00 a.m. the following day on 6/20. (In the event that Juneteenth and Father's Day lands on the same day, Father's Day prevails).</u>	Parent 1	Parent 2
Father's Day	8:00 a.m. – 8:00 a.m. the following day	<u>Parent 2</u> <u>Father</u>	<u>Parent 2</u> <u>Father</u>
4th 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
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

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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, <u>the holiday takes precedence and</u> 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, <u>the holiday takes precedence and</u> 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, <u>the holiday takes precedence and</u> 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. 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.

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 Less 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, for the week, and continuing until the return to school Monday or 8:00 a.m., whichever is applicable the following week. Parenting

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time shall be an equivalent period of time if a parent is unavailable on weekends and the children do not miss school. Holiday time takes precedence over weekends.

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 if no school is in session~~, 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.

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Holiday / Special Event	Details /Times	Even-Numbered Years	Odd-Numbered Years
Martin Luther King Jr. Day weekend	Starts when school is released <u>on Friday or 3:15 p.m., whichever is applicable for the week</u> and ends when the children are <u>returned to school on Tuesday or at 8:00 a.m., whichever is applicable returned to school the following week.</u>	Parent 2	Parent 1
President's Day weekend	Starts when school is released <u>on Friday or 3:15 p.m., whichever is applicable for the week</u> and ends when the children are <u>returned to school on Tuesday or at 8:00 a.m., whichever is applicable returned to school the following week.</u>	Parent 1	Parent 2
Easter weekend	Starts when school is released <u>on Friday or 3:15 p.m., whichever is applicable for the week</u> and ends when the children are <u>returned to school on Tuesday or at 8:00 a.m., whichever is applicable returned to school the following week.</u>	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	<u>Starts when school is released for Spring Break and ends at 8:00 a.m. on the day school begins after the break. Starts when school is released for the week and ends when the children are returned to school the following week.</u> 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.	<u>Parent 1</u> <u>Mother</u>	<u>Parent 1</u> <u>Mother</u>
Memorial Day weekend	Starts when school is released <u>on Friday or 3:15 p.m., whichever is applicable for the week</u> and ends when the children are <u>returned to school on Tuesday or at 8:00 a.m., whichever is applicable returned to school the following week.</u>	Parent 2	Parent 1
Juneteenth	Starts at 8:00 a.m. on 6/19 and ends at 8:00 a.m. on 6/20. (In the event that Juneteenth and Father's Day lands on the same day, Father's Day prevails)	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.	<u>Parent 2</u> <u>Father</u>	<u>Parent 2</u> <u>Father</u>
4th of July	Begins July 3 at 5:00 p.m. and ends July 5 at 5:00 p.m.	Parent 1	Parent 2

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Labor Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable for the week and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable returned to school the following week .	Parent 1	Parent 2
Native American Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable for the week and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable returned to school the following week .	Parent 2	Parent 1
Halloween	Starts on 10/31 when school releases for the day or 3:00 p.m. if no school 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 the children are returned to school or 8:00 a.m. if there is no school .	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. is released for the week and ends when the children are returned to school the following week .	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
1st half of winter break	The winter break starts 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
2nd half of winter break, including New Year's holiday	The winter break starts 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

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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, <u>the holiday takes precedence and</u> 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, <u>the holiday takes precedence and</u> 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.

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	<u>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.</u> <u>Starts when school is released for the week and ends when the children are returned to school the following week.</u>	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	<u>Starts when school is released for Spring Break and ends at 8:00 a.m. on the day school begins after the break.</u> <u>Starts when school is released for the week and ends when the children are returned to school the following week.</u> 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	<u>Starts when school releases on Wednesday or 3:15 p.m., whichever is applicable, and ends Monday at 8:00 a.m.</u> <u>Starts when school is released for the week and ends when the children are returned to school the following week.</u>	Parent 2	Parent 1
Winter Break	The winter break starts <u>when</u> 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.

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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)~~ 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 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 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 and permission from the court may be required. 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 <https://ujs.sd.gov/self-help/family-law-help/> under Relocate with Minor Child.

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

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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 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.

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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>
<https://ujs.sd.gov/self-help/family-law-help/under Shared Parenting Guidelines & Plans>.

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 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

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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 otherparent.

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.

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

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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.

“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/> <https://ujs.sd.gov/self-help/family-law-help/shared-parenting-guidelines-plans/> under Shared Parenting Plans.

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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> <https://ujs.sd.gov/media/od3jgnnd/ujs-372-objection-to-order-implementing-guidelines-9-2022.pdf>. 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 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 [~~\(under the "Parenting" tab\)~~](https://ujslawhelp.sd.gov/) [~~for additional information on mediators, parenting coordinators, co-parenting tools and counseling options.~~](https://ujs.sd.gov/programs-services/)

Mediation is another opportunity for parents to meet and confer regarding parenting plans with the assistance with a professional. Mediation can be voluntary or court ordered. Approved court appointed mediators can be found at <https://ujs.sd.gov/programs-services/> under Mediators.

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.

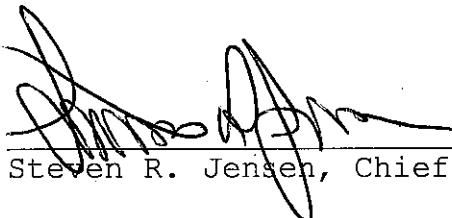
Notice of Rules Hearing No. 158 - February 11, 2026

Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments shall be reduced to writing and filed with the Clerk of the Supreme Court no later than February 2, 2026. Subsequent to the hearing, the Court may reject or adopt the proposed amendments 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://ujs.sd.gov/Supreme%20Court/Hearings.aspx> or the State Bar of South Dakota's website <https://www.statebarofsouthdakota.com>.

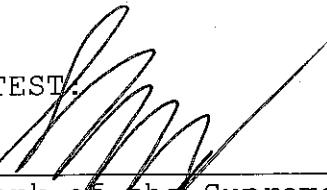
DATED at Pierre, South Dakota this 7th day of January, 2026.

BY THE COURT:



Steven R. Jensen, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JAN 07 2026



Clerk

In Memoriam



Frank Duane Brost
March 8, 1937 –
January 1, 2026

Frank Duane Brost, 88, passed away on Thursday, January 1, 2026, at Ava's House Hospice in Sioux Falls, South Dakota.

A gathering to remember his life legacy will be held Saturday, January 10, 2026, at The Sanford Barn (2510 E. 54th Street North) on the campus of Sanford Health's Research and Corporate headquarters. The family will be present starting at 1:00 pm, with the service starting at 2:00 pm. Following the service, the family invites those present to remain at the barn and enjoy refreshments and share stories.

Frank passed away on January 1st, after living a life he may not have foreseen in his childhood on a sheep ranch in Jones County. In 88 years, Frank ventured from the banks of the White River to every state in the United States and over 40 countries around the world. Along the way, he made himself into a tremendous athlete, a successful rancher, a capable attorney, and a valued advisor and partner to elected officials, friends, family, coworkers, community members, neighbors, people on buses, folks in elevators, referees at ball games, and pretty much anyone he met. At his core, Frank wanted to help others and to be of service to the state and country he loved. He also tried to learn all he could about a world and about people he never thought he would see or meet while on the ranch he loved so much.

Frank was born on March 8th, 1937, to Mabel Aspden Brost and Herman Brost in Alliance, Nebraska. Frank was joined by a sister, Dee, in November 1939. He was raised on the sheep ranch his parents were building along the White River south of Okaton, South Dakota.

Frank was a four-year starter for Murdo high school, was selected for the all-state team in his senior year and eventually was inducted into the South Dakota High School Basketball Hall of Fame. He was forever proud of the Murdo Coyote team from his junior year that made it to the state tournament.

Frank, an honor student, graduated from Murdo High

School in 1955 and enrolled in the University of South Dakota Business School. He participated in basketball for two years and joined the ROTC program. Upon graduation, he received his commission as a 2nd lieutenant in Army Reserve. When he graduated in 1959, he was recognized as a Distinguished Military Graduate and went on to serve in the United States Military Reserves, retiring as a Captain in 1967.

After a brief stint on active duty in the Army and a couple years back on the ranch, Frank enrolled in the USD School of Law in 1962. He worked for law firms in Kennebec and Sioux Falls.

While practicing law in Sioux Falls, Frank met and married Martha Clark in 1967. The couple moved to Presho, where Frank had purchased the practice of John Jones. Frank and Martha welcomed three boys to their family: John, Kurt and Mark. Frank was active in the Presho community beyond his law practice. He spent time on the school board, including 6 years as President, was on the South Dakota Associated School Board, served as City Attorney, sat on the local bank board, and was active in the Lions Club.

In 1986, his friend George Mickelson asked Frank to move to Pierre and become his Chief of Staff. Frank took great pride in the work he did during this time as he worked alongside a team of talented people bringing his friend's vision for South Dakota's future to life. Following the death of Governor Mickelson in a tragic plane crash, Frank remained in his role at the request of Governor Walter Dale Miller as he completed George's term.

In 2000, Frank and Martha moved to the Black Hills. From there, he ran his ranch that he had continued to manage throughout his career and stepped up his efforts to travel the world with family and friends. In 2014, Frank and Martha moved to Sioux Falls, where they lived until his passing. During his time in Sioux Falls, Frank enjoyed watching sporting events, traveling, being a grandpa, and enjoying the many friends he had made along the way - all while continuing to make new ones.

Frank served his community, state, and country in many ways, but he took particular pride in his work on the State Board of Charities and Corrections, where he served as chairman. He was instrumental

in the separation of those two entities during his time in state government. Later, he served on the board of the National Institute of Corrections. After 2000, he became active in the National Cattlemen's Association, serving on the board of directors and tax committee. He was later asked to testify before Congress on behalf of the Association and the producers it represented. His passion for the business of ranching also brought him to lead the fight to repeal Amendment E in South Dakota.

Frank was preceded in death by his parents and sister. He leaves behind his wife of 58 years, Martha; sons John, Kurt (Krista) and Mark (Elissa). He is also survived by his 6 grandchildren Carl, Sigrid, Olivia, Matthew, Frank, and Alice.

If friends so desire, memorial donations may be made to the South Dakota Community Foundation, Feeding South Dakota, or the South Dakota Basketball Hall of Fame.



Dennis Clair Whetzal
January 13, 1953 –
December 30, 2025

Dennis Clair Whetzal, 72, passed away peacefully at Hospice House in Rapid City on Tuesday, December 30, 2025.

Born to Frank and Waneta (né Hess) on January 13, 1953, in Brookings, SD, Dennis was the middle child, born between older brother Robert and younger sister Tamara.

Dennis graduated with his Bachelor of Science from Oklahoma State University in 1975 and went on to graduate from University of Nebraska School of Law with a Juris Doctorate in 1978. That same year, Dennis passed the Bar exam and began his legal career with Black Hills Legal Services, later moving to Private Practice in 1984. Shortly after, Dennis took on an additional role serving as Bankruptcy Trustee for the region.

Dennis was known for his love of Harley-Davidson Motorcycles, having attended every Sturgis Rally he could. He loved watching Oklahoma State Cowboys

and Denver Broncos football, taking hikes, and driving through Spearfish Canyon.

He is survived in death by his brother Robert Whetzal and sister Tamara Stansfield; first wife Deborah Whetzal; their two children, Jeff Whetzal and Jana Pelletier; and four grandchildren, McKenna Clark, Amelia Clark, Jacob Pelletier, and Benjamin Pelletier.

He is preceded in death by both parents; his wife, Nancy Sleeper; and many close friends.



Roberta Ferron
February 13, 1940 –
February 11, 2025

Roberta Ferron was a committed mother, kind, loving and resilient. She lived a life with family, generosity and love at the center. She supported the diversity of her children's life experiences, facilitating admissions into treatment, self-help programs and their spiritual and religious choices. She became an Al-Anon member and Avatar Master. She hosted summer grandma camps for her cherished grandchildren. She believed her primary purpose was to raise her children and supported each of their unique needs at every stage of their lives, even during her passing. She did her part to help heal intergenerational trauma and was a good relative.

Roberta maintained contact with childhood friends while widening her circle of friends through her career transitions. Throughout her life, she and her friends planned many fun excursions. Vivacious and magnetic, Roberta could light up a room with her radiant smile and spirit. She had the gift of making everyone feel special, valued and included. She woke up every day thinking how she could help people. Countless people benefitted.

Roberta was a member of the Rosebud Sioux Tribe (Sicangu Lakota Oyate) and is acknowledged as one of the first American Indian women to graduate from the University of South Dakota School of Law. Robbi credited affirmative action policies for her academic

opportunities. Her varied professional journeys included artist, teacher, lawyer, administrator and judge. Her professional legacy is defined by her intelligence, strength of character, unwavering willpower, generosity and integrity.

She was a civil and human rights activist, a supporter of human rights and a Democrat. Roberta's schooling and work was complimented by service on many committees, commissions, associations, organizations and boards, which sought her involvement. Open minded and committed to rigorous thinking, she personified dignity, warmth and character and the ability to listen without judging others.

Roberta developed expertise in Equal Employment and Affirmative Action Law. She retired part-time in 2003 and continued part-time work as a judge for tribes in the Northwest until 2014.

In 1998, Roberta purchased her final home in Bellingham, WA, where she enjoyed beautiful views of Bellingham Bay and the Canadian Northern Rockies. She planned to transition from this life in her home surrounded by vistas, which she did February 11, 2025, with the help of family and friends. Her body was cremated, at her request. Roberta's memorial gathering will be held June 20, 2026, 1:30pm-4:00pm, Canyon Lake Activity Center, 2900 Canyon Lake Dr., Rapid City, SD 57702.

Roberta was the second of five siblings (Robert, Leonard, Jacqueline, Dyson, Paul) born to Corrine Bordeaux and Robert Ferron. She had four additional siblings from other relations by her father (Sandra, Jeanette, Katie) and by her mother (Jean). Both of Roberta's parents attended Catholic boarding schools in Mission, SD.

Roberta's parents separated. Corrine had financial challenges providing for the children on her nurse's aide salary. The children were sent to live with Robert, her father, in Butte, MT. In 1958, Roberta graduated from Girls Central High School in Butte. Upon her graduation, Robert moved the family to Oregon where Roberta attended Sacred Heart School of Nursing. In 1960 she married Thomas Huddleston. They had five children (Richard-1961, Jennifer-1962, Danielle-1963, twins Bryan and Aaron-1964). In 1965, a tragic family automobile accident on the Olympic Peninsula was fatal for Aaron. Dealing with the accident was very difficult

for the couple and was a factor in their divorce.

In 1970, Roberta completed a BA in Education and Art at the University of Washington. She taught in several Federal Way schools. In 1972, Roberta moved her family back to South Dakota. She completed her Master's in Guidance and Counseling (1973) and Juris Doctorate (1976) at the University of South Dakota, Vermillion.

She started her legal career working for the Rapid City Area School District (1976-1978). She focused on legal services, civil, human rights, women's rights, and Indian Affairs. She became an adjunct assistant professor at Montana State University, Bozeman (1979-1981), teaching undergraduate and graduate classes in Indian Law and Policy and moving into administration. She worked as an administrator at Eastern Montana College, Billings (1981-1982) and became the Director of Affirmative Action at the University of Kansas, Lawrence (1983-1987). In 1987, to help with the care of her mother, she moved back to the west coast as Administrator for Affirmative Action and Recruitment for the City of Seattle (1987-1990). She became the Associate Director of the Equal Employment/Affirmative Action/Human Rights Office, University of Washington, Seattle. (1995-1997). She continued public service in leadership roles in the administrations of two Washington governors. She advocated for rights and inclusion and became a mentor to many.

In 1998, Roberta made her final move to Bellingham, where she worked at Western Washington University until she retired from full-time work (1998-2003). She worked as a mediator and tribal judge for Northwest Intertribal Court System, Lummi Nation, Spokane Tribe of Indians and Sauk-Suittle Tribal Court until she retired full-time (2004-2014).

Roberta is survived by her four children Richard, Jennifer, Dani and Bryan, grandchildren, great-grandchildren, family, extended family and a multitude of friends. She touched many lives in her lifetime of giving and leaves a lasting legacy in the hearts of those who knew her. Her spirit lives on in the lives she changed and the love she shared.



Thomas Vincent Conway
April 27, 1945 –
January 1, 2026

Thomas Vincent Conway, beloved husband and father, passed away peacefully at home with family in Arlington, Virginia, at the age of 80 on January 1, 2026. He was born on April 27, 1945, in Watertown, South Dakota, to Austin and Alida (Faehn) Conway. He graduated from Watertown High School in 1963 and attended the University of South Dakota, where he graduated with a B.A. in 1967 and was a proud member of the Lambda Chi Alpha Fraternity. Thereafter he attended the University of South Dakota Law School, graduating in December 1970. While in law school, he met Mary

Odland, whom he married on September 2, 1969, in Costa Mesa, California. In September 1971, Tom and Mary moved to Arlington, Virginia, when Tom joined the Office of the General Counsel, United States Department of Agriculture in Washington, D.C. He retired from the General Counsel's Office in 2008 after 36 years, including the last 23 years as Associate General Counsel. Tom was a member of the South Dakota Bar and the District of Columbia Bar Associations. He was also a member of the Better Sports Club of Arlington, American Legion Post 139, and Lutheran Church of the Redeemer in McLean. He is survived by his wife Mary, daughter Lindsay, and brother Mike. In lieu of flowers, it was Tom's wish that those concerned kindly consider donating in his memory to Lutheran Church of the Redeemer (1545 Chain Bridge Rd, McLean, VA 22101) or the Animal Welfare League of Arlington (2650 S Arlington Mill Dr, Arlington, VA 22206).

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- ...if you're having thoughts of suicide

Counselors at the Helpline Center answer the 988 Lifeline for South Dakota. 988 provides support, connections and hope during a mental health or substance use crisis. People can call, text or chat 988 for themselves or if they are worried about a loved one who may need support. **Available 24/7.**



helplinecenter.org/9-8-8





U.S. FEDERAL COURTS

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH DAKOTA

POSITION TITLE:	Judicial Term Law Clerk to U.S. Bankruptcy Judge Laura L. Kulm Ask
LOCATION:	Sioux Falls, South Dakota
TYPE OF APPOINTMENT:	Full-time, one-year appointment (August 2027 - August 2028) with the possibility of renewal as described below
SALARY:	\$74,687 - \$106,437 (JSP 11/1 - 13/1) (based upon qualifications)
JOB ANNOUNCEMENT:	26-01
CLOSING DATE:	April 30, 2026, or until filled

FEDERAL JUDICIARY OVERVIEW:

The federal judiciary is one of the three branches of the United States government (alongside the executive and legislative branches). Often referred to as the Third Branch, federal courts are the “guardians” of the Constitution. The federal courts have exclusive jurisdiction over bankruptcy cases. As part of the federal judiciary, employees have the unique experience of working with federal judges and working closely with other partnering agencies such as the U.S. Trustee’s office and the U.S. Attorney’s office. The look and feel of the historic federal courthouse and its atmosphere make for a very powerful work experience. Federal clerkships are engaging and thought-provoking experiences. Learn more about the [U.S. Federal Court system](#).

POSITION OVERVIEW:

The Judicial Term Law Clerk provides legal support to U.S. Bankruptcy Court Judge Laura Kulm Ask. The successful candidate will serve as one of two law clerks supporting the work of the Judge and the Court. The position may be a one-year term, beginning August 2027, with the possibility of renewal (based solely on the Judge’s discretion).

REPRESENTATIVE DUTIES INCLUDE:

- Reviewing pleadings filed with the Court to determine the issues involved and the basis for relief;
- Reviewing dockets and monitoring the progress of matters;
- Reviewing and potentially screening motions and drafting orders for the Judge’s review;
- Drafting bench memorandums for the Judge’s consideration;
- Performing extensive legal research, proofreading orders and opinions while verifying citations, and drafting legal documents such as orders, memorandums, and opinions;
- Assisting with case management responsibilities, including preparation for conferences and general docket management tasks;
- Attending hearings and trials, and assisting the Judge during these proceedings;
- Maintaining liaison between the Court and litigants, including communicating with counsel;
- Keeping abreast of changes in the law and briefing the Judge on them; and
- Performing miscellaneous administrative duties and other duties as assigned.

MINIMUM QUALIFICATIONS:

The candidate must be a U.S. citizen or eligible to work in the United States, a graduate from a law school of recognized standing by the American Bar Association or the Association of American Law Schools, and have one or more of the following attributes:

- Standing within the upper one-third of the candidate's law school class;
- Experience writing for a law review or on a moot court, externship or clinical program; or
- Demonstrated proficiency in legal studies which, in the opinion of the Judge, is equivalent to one of the above. The determination of an acceptable equivalence rests solely with the Judge.

PREFERRED QUALIFICATIONS:

- An academic background in bankruptcy or secured transactions coursework;
- Excellent legal research and writing skills;
- Ability to effectively communicate, both orally and in writing;
- Good organizational, computer, and word processing skills;
- Ability to work effectively and well with others in a team-based environment;
- Ability to maintain confidentiality, uphold the Court's ethical rules and exhibit good judgment, maturity, dependability, and responsibility; and
- Ability to manage time and prioritize tasks to meet deadlines.

BENEFITS:

The position falls within the Judicial Branch of the United States government and includes most federal benefits. A Term Law Clerk is not eligible to participate in the Federal Employee Retirement System or the Thrift Savings Plan. A Term Law Clerk is not classified under Civil Service but is entitled to similar benefits as other federal employees. These benefits include:

- 11 paid holidays; and
- Optional participation in choice of health plans, dental and vision insurance programs, group life insurance program, long-term care insurance, and pre-tax flexible spending account plan for certain expenses.

HOW TO APPLY:

Persons interested in this position should submit the following application materials in PDF format to SDB_Jobs@sdb.uscourts.gov:

- Completed Application for Judicial Branch Federal Employment, Form AO-78 (available at <https://www.uscourts.gov/forms-rules/forms/application-judicial-branch-federal-employment>);
- Cover letter;
- Detailed resume;
- Writing sample; and
- Law school transcript.

Applicants selected for an interview may also be asked to provide a list of references prior to the interview.

BACKGROUND CHECK:

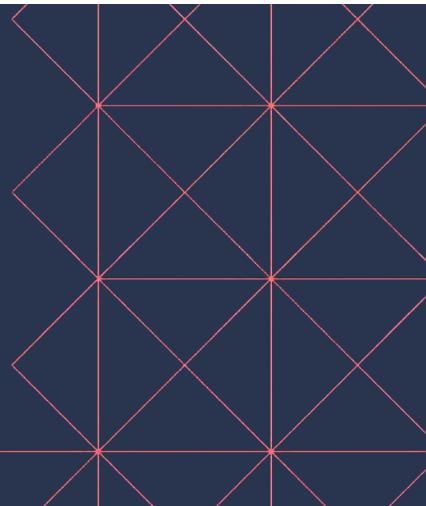
The selected candidate will be required to undergo a fingerprint check through the FBI's Criminal Justice Information Services Division. The successful candidate for this position is subject to a full National Crime Information Center (NCIC) background records check.

DISCLOSURES:

- This is an in-person position, so the selected candidate will be required to work in the Sioux Falls, South Dakota, courthouse.
- Only qualified applicants will be considered for this position.
- Interview and relocation travel expenses will not be reimbursed.
- Electronic direct deposit of salary payments is mandatory.
- All employees of the Court are at-will employees, and therefore an appointee may be removed from this position at any time.
- Travel will be required.
- The Court reserves the right to modify the conditions of this job announcement or to withdraw the job announcement without prior notice.
- A Term Law Clerk must adhere to a Code of Ethics and Conduct for United States Judges as applicable to judiciary employees, which is available to applicants for review upon request, and must agree to confidentiality and IT policies.
- The United States Bankruptcy Court is an Equal Opportunity Employer.

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Access Fastcase:

Log in to the Member Hub at statebarofsouthdakota.com, scroll to the bottom of the left-hand menu, and click on Fastcase.

Questions?

Contact the State Bar office at (605) 224-7554 or info@sdbar.net

Lawyers Assistance Program Leadership Transition Announcement

We are pleased to share an important update regarding the future of the State Bar Lawyers Assistance Program (LAP).

As part of our ongoing commitment to supporting the well-being, resilience, and professional success of our members, the State Bar will soon begin the search for new leadership of the Lawyers Assistance Program.

This search reflects our dedication to ensuring the continued strength and sustainability of the work and services provided by our current LAP Director, Becky Porter.

Becky plans to continue to serve in her role during the transition and will play an integral role in mentoring and training.

This thoughtful, collaborative transition plan is designed to maintain continuity of services, program stability, and the high standard of care that Becky has provided to members over the years.

With Becky's continued leadership through the transition, we are confident that the Lawyers Assistance Program will remain a strong and trusted resource for those seeking support and guidance.

We extend our sincere appreciation to Becky for her ongoing dedication and for helping to ensure a smooth and successful transition.

Additional updates will be shared in the coming weeks.

State Bar of South Dakota

Career Center

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

Email your employment announcement to tracie.bradford@sdbar.net by 26th of each month to have it included in the next newsletter. Please be sure to include a closing date. To see more jobs listings, visit www.statebarofsouthdakota.com



Office of Attorney General Appellate Position

DETAILS: The Office of Attorney General has an immediate opening for an Assistant Attorney General in our appellate position. This position presents an unmatched opportunity to brief and argue cases before the South Dakota Supreme Court, United States District Court, and Eighth Circuit Court of Appeals. The attorney chosen for this spot will represent the state in criminal appeals, habeas cases, and as a prosecutor for various state licensing boards. The position's primary duties include researching for and writing appellate briefs and orally arguing cases.

AAGs in South Dakota have diverse opportunities you won't find elsewhere, including appellate practice, civil and criminal trial litigation, administrative law, and consumer protection, all under one roof, without the stress of billable hours, and with the benefit of a collaborative, friendly work environment.

OFFICE LOCATION: The appellate division is headquartered in Pierre—the “best place to live” in South Dakota according to USA Today in 2018. Pierre is a safe, tight-knit community with over 350 acres of parks, serene landscapes, highly rated restaurants, water and dog parks, friendly people, daily commercial flights in and out of a hassle-free airport, and an affordable cost of living. The right applicant may have the possibility to work from a branch office location.

STARTING SALARY: Salary for this position is \$80,000 annually or greater, depending on experience. The State of South Dakota has an exceptional benefit package including retirement, health insurance, paid leave, and paid training opportunities.

QUALIFICATIONS: Applicants must have a juris doctorate, be licensed to practice law in South Dakota, and have excellent writing, research, and communication skills.

APPLICATION PROCESS AND DEADLINE DATE: Interested persons should send a cover letter, resume containing three references, and a writing sample by February 27, 2026, to:

SARAH THORNE, OFFICE OF ATTORNEY GENERAL, 1302 E. HIGHWAY 1889, SUITE 1, PIERRE, SOUTH DAKOTA 57501, or via email to Sarah.Thorne@state.sd.us

Family Law

Ver Beek Law, Prof. LLC is seeking a highly motivated associate to join our family law practice. Ver Beek Law, Prof. LLC is a well-established and growing law firm dedicated to providing compassionate, strategic, and results-driven representation in family law matters. We pride ourselves on a collaborative work environment and commitment to client service. The ideal candidate has strong legal writing, research, and advocacy skills as well as excellent organizational and time-management skills. Two or more years of experience in family law is preferred but newer attorneys with relevant experience are encouraged to apply. We offer competitive compensation and benefits. Interested applicants may send their cover letter and resume to kelsey@verbeeklaw.com.

HIRING?

*Find out how you can post
your open positions here!*

Email: tailynn.bradford@sdbar.net

Managing Attorney

Reports to: CEO

Supervises: Attorneys & Paralegals, Case Manager, Community Health Worker (CHW)

Location: Sioux Falls, South Dakota

Specific Functions: Assist the CEO in maximizing the impact and ensuring the smooth and efficient functioning of the legal team. Serve as the administrative manager and immigration legal expert of the legal team, mentor and supervise attorneys and members of the legal team. Occasional travel will be required. Participation in organizational events and meetings will be required.

Administrative Management of Legal Program and Legal Team

- Serve as day-to-day administrative and personnel manager of SDVFP's legal staff and help foster an inclusive, collaborative and supportive work environment.
- Identify and pursue ways to improve efficiency in work and information flow.
- Oversee coordination of grant management activities among attorneys and liaise with development staff regarding grant management, including facilitating timely and accurate reporting to grant funders.
- Assist in grant writing in coordination with grant management team.
- Draft outreach materials highlighting the SDVFP's case docket and victories for external audiences.
- Oversee coordination of communication activities among attorneys with communication staff.
- Develop, implement and monitor the legal team's annual budget and work to contain costs within the legal team in a manner that is consistent with any strategic plan and/or programmatic objectives.
- Monitor staff and other resource allocation within the legal team (including approval of legal team travel) and assist the Executive Director in resource allocation decisions in light of strategic and/or programmatic objectives.
- Work to acquire resources for the legal team, including library and online research resources.
- Oversee and manage the recruitment, hiring, and professional development of all legal staff (final decisions regarding legal staff rest with the CEO.)
- Oversee the orientation and training of legal staff, including training on new technology and ongoing professional development, in consultation with the Chief Operating Officer.
- Implement the performance review process for legal staff in coordination with the CEO.
- Oversee the case intake process, case strategy, and case

problem-solving.

- Oversee the management of the case docket and waitlist.
- Oversee the use and implementation of the Case Database.
- Stay up to date with dynamic immigration law and policy changes and impact on case docket.
- Mentor legal team, providing both legal knowledge support and mental health support.
- Identify and implement systems to ensure best practices within the legal team, including with respect to retainer agreements, co-counsel agreements, billing rates, and compliance with professional ethics.
- Assist with legal team recruitment, including law school interns/externs and CHW interns/externs, by forming relationships with law schools and other appropriate organizations to obtain quality candidates; attend job fairs, etc.
- Cases may be assigned depending on case docket and licensing.

Organizational Strategy & Leadership

- Serve as a member of SDVFP's Management Team, providing insight, counsel and management assistance to the CEO and other Management Team members.
- Work with the CEO and SDVFP Management Team to plan for and execute future legal team growth.
- Assist the CEO with implementation of any strategic planning and goal-setting processes, and with the implementation of a strategic plan and/or programmatic objectives within the legal team.

Governance & General Counsel Work

- Review and approve retainer agreements, contract lawyer and co-counsel agreements with outside legal teams and organizations.
- Oversee and manage organizational compliance with all applicable laws and regulations pertaining to nonprofit organizations and South Dakota Ethical Rules of Professional Responsibility.
- Work with the CEO to produce written reports regarding the legal team's advocacy and case development work to SDVFP's Boards of Directors as needed.
- Work with SD Voices for Justice lobbyists to advance the goals of SD Voices and coalition partners. Support legislative advocacy with legal and policy analysis.
- Provide staff support and guidance to SDVFP's Boards of Directors as needed.

Additional Information

Our clients are children and adults who may have experienced extreme trauma that may include sexual

assault, sexual exploitation and trafficking, physical cruelty, neglect or abuse, and mental cruelty. To work with and represent our clients, this position requires emotional resilience and crisis management skills that entail separating personal feelings and keeping professional boundaries with clients.

Qualifications

- Demonstrated commitment to the mission and goals of SD Voices for Peace and SD Voices for Justice.
- Licensed to practice law in any U.S. jurisdiction with the ability to join the South Dakota Bar (willing to take the next bar examination or waive in).
- 5+ years of immigration law experience; 5-8 years of experience practicing law.
- Family law experience and state court process experience preferred.
- Nonprofit and/or legal team management preferred.
- Management experience in fast paced environment.
- Solid financial skills, experience managing budgets preferred.
- Board management experience, a plus.
- Excellent writer; effective communicator.
- Fluency in Spanish (written and spoken) preferred but not necessary.
- Proven ability to work independently as well as within a team.
- Proven ability to remain empathetic and professional when faced with emotional distress and conflict.
- Demonstrated resilience and effective coping strategies for managing vicarious trauma and stress.
- Exceptional communication and active listening skills, even in emotionally charged conversations.
- Strong sense of self-awareness and ability to process your own emotional responses to challenging and complex situations.
- Creating firm boundaries between attorney and clients.
- Understanding that cases may not be resolved in the manner advocated for.

SDVFP is an equal opportunity employer and values a diverse and progressive workplace.

This is a full-time position. Competitive salary commensurate with experience. Health benefits; generous paid holidays; optional flexible schedule; student loan repayment; AILA membership, malpractice insurance and SD Bar dues included.

To Apply:

Email a one-page cover letter with salary requirements, resume (2 pages only) and one writing sample (1000 word max) in one PDF file to Chief Operations Officer Jen Dreiske at jen@sdvfpeace.org. Please use the subject

heading, "Managing Attorney Application" Applications will be accepted until the position is filled.

The mission of South Dakota Voices for Peace is to build power and enable healing in immigrant, refugee communities by amplifying their voices and working in solidarity with all who dismantle bigotry and racism. We value a diverse workforce and an inclusive culture. SD Voices for Peace encourages applications from all qualified individuals without regard to race, color, religion, gender, sexual orientation, gender identity or expression, age, national origin, marital status, citizenship, disability, and veteran status. South Dakota Voices for Justice is a sister organization providing direct lobbying services.

Staff Attorney

Job Title: Staff Attorney

Reports to: CEO

Location: Sioux Falls, South Dakota

Specific Functions:

The Staff Attorney carries out direct legal services to children in immigration court and survivors of violence with immigration legal needs living in South Dakota. The Staff Attorney will work on a team with case coordinators, paralegals, interns, Community Health Workers, and interpreters and will be supervised by the CEO, an immigration attorney. The Staff Attorney will have opportunities to conduct community presentations, develop educational material, and attend community meetings. Occasional travel includes Immigration Court, South Dakota State Court, and meeting with clients.

Primary Responsibilities:

- Conduct intakes, legal research, fact development, work with multilingual clients, draft and file immigration filings, affidavits, briefs, and prepare clients for interviews and court proceedings.
- Represent clients through immigration court proceedings and understand EOIR practices and procedures.
- Develop trusting relationships with clients, community, staff, and stakeholders.
- Firm adherence to all applicable Professional Responsibility and ethical standards.
- Stay abreast of all policy and rule changes in immigration law.
- Represent SDVFP at regional roundtables and committees pertaining to immigration law and our practice area.
- Represent SDVFP at all meetings and events
- Work with legal team to develop sound strategies in

case management.

- Adhere to case management policies and procedures.
- Work with SDVFP team to develop public education materials and communication strategies.
- Conduct relevant presentations in multilingual communities and ability to work with interpreters.
- Work with SD Voices for Justice lobbyists to advance the goals of SD Voices and coalition partners. Support legislative advocacy with legal and policy analysis.
- Demonstrate a commitment to diversity, equity and inclusion in the workplace using a personal approach that values all individuals and respects differences in race, ethnicity, age, gender identity and expression, sexual orientation, religion, ability, and socio-economic circumstance.
- Commit to work collaboratively and respectfully toward resolving obstacles and/or conflicts.
- Travel as required.

Additional Information

Our clients are children who may have experienced extreme trauma that may include sexual assault, sexual exploitation and trafficking, physical cruelty, neglect or abuse, and mental cruelty. To work with and represent our clients, this position requires emotional resilience and crisis management skills that entail separating personal feelings and keeping professional boundaries with clients.

Qualifications:

- Demonstrated commitment to the mission and goals of SD Voices for Peace and SD Voices for Justice.
- Licensed to practice law in any U.S. jurisdiction with the ability to join the South Dakota Bar (willing to take the next bar examination or waive in).
- 1-3 years' experience in the legal field with an understanding of state court processes and immigration court processes, or willingness to learn.
- Passionate commitment to and familiarity with immigrants' rights, racial and social justice, and state issues around immigration.
- Demonstrated ability to work with vulnerable clients.
- Demonstrated ability to work with multilingual clients and interpreters.
- Demonstrated ability to work with a multicultural team.
- Fluency in Spanish (written and spoken) preferred but not necessary.
- Proven ability to work independently as well as within a team.
- Excellent interpersonal and verbal communication skills.
- Proven ability to remain empathetic and professional when faced with emotional distress and conflict.
- Demonstrated resilience and effective coping strategies for managing vicarious trauma and stress.
- Exceptional communication and active listening skills,

even in emotionally charged conversations.

- Strong sense of self-awareness and ability to process your own emotional responses to challenging and complex situations.
- Creating firm boundaries between attorney and clients
- Understanding that cases may not be resolved in the manner advocated for

SDVFP is an equal opportunity employer and values a diverse and progressive workplace.

This is a full-time position. Competitive salary commensurate with experience. Health benefits; generous paid holidays; optional flexible schedule; student loan repayment; AILA membership, malpractice insurance and SD Bar dues included.

To Apply:

Email a one-page cover letter with salary requirements, resume (2 pages only) and one writing sample (1000 word max) in one PDF file to COO Jen Dreiske at jen@sdvfpeace.org. Please use the subject heading, "Staff Attorney Application" Applications will be accepted until the position is filled.

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Opportunity to Lead in Civil Legal Aid

East River Legal Services is hiring a Managing Attorney to play a key leadership role in a growing civil legal aid organization. The position oversees and supports practice areas including family law, housing, consumer, and public benefits. Full details are available at: <https://erlservices.org/employment-opportunities/>

Deputy State's Attorney Position, Hughes County

Full-time permanent position now open for a Deputy State's Attorney in the Hughes County Office of the State's Attorney in Pierre, South Dakota.

The Hughes County State's Attorney's Office is looking for an attorney to handle all juvenile matters including delinquency proceedings, CHINS petitions, and abuse and neglect matters, present those cases for legal proceedings, perform legal research, and prepare, draft and file legal documents and correspondence. Additional responsibilities include but are not limited to: covering felony and misdemeanor hearings when required, advising local law enforcement agencies and working with DSS, dealing with juvenile justice issues, providing information to victims and witnesses and helping to fulfill the statutory responsibilities of the office.

Applicants must be able to: manage a large case volume and respond quickly and effectively to changing circumstances; speak and write effectively; establish and maintain effective working relationships with coworkers, other agencies, and the public; maintain professional appearance and demeanor.

Minimum Qualifications: Applicants must possess a J.D. and be an active member in good standing of the State Bar of South Dakota or be admitted within one year of hiring.

Preferred Qualifications: One or more years' experience is highly preferred. The ideal candidate would have 2 to 5 years' experience in the abuse and neglect area but will consider all applicants with a strong desire to work on behalf of and ensure the safety of children.

Hughes County offers a comprehensive benefits package for employees including health and dental insurance, participation in the SD Retirement System, and paid time off. Salary range is \$72,580.31 to \$90,255.04 and is determined in part based on years of professional experience.

Please send a resume and cover letter to Casey Jo Deibert, Hughes County State's Attorney, 104 E. Capitol, Pierre, SD 57501. Resumes and cover letters will also be accepted via email at casey.deibert@co.hughes.sd.us.

Posting to remain open until the position is filled. All inquiries are confidential. Hughes County is an Equal Opportunity Employer.

Litigation Associate

Goodsell + Oviatt Law Firm is seeking a Litigation Associate, either as a lateral or a new associate, in Rapid City, SD. The primary focus of this position will be on personal injury, construction law, and insurance law, as well as some aspects of business law and commercial matters. Responsibilities will include conducting research, writing briefs, preparing for trials, and handling complex litigation in both state and federal courts in South Dakota and North Dakota.

Candidates must possess strong academic credentials and exceptional communication skills, both oral and written. The firm offers a competitive salary, a comprehensive benefits package, and opportunities for professional development and growth.

Confidential inquiries, including a résumé and cover letter detailing your experience, should be sent to:

Lori Miklos, Business Manager
Nathan Oviatt, Attorney
Goodsell + Oviatt Law Firm
PO Box 9249
Rapid City, SD 57709
or email at Lori@goodselloviatt.com or
Nate@goodselloviatt.com

Associate Attorney

Position Summary

Thompson Law is seeking an Associate Attorney to join its estate planning practice in Sioux Falls, South Dakota. The position is well suited for an attorney with experience in estate planning, trust administration, and business succession planning. While a foundational level of technical knowledge is expected, training and mentorship will be provided to support professional development and long-term success within the firm.

This role offers the opportunity to become a key contributor to a well-established practice while continuing to build legal skills, client relationships, and professional responsibility.

Who We Are

Thompson Law is an established estate planning law firm in Sioux Falls dedicated to helping families plan wisely and preserve what matters most. Our work focuses on estate planning, trust and estate administration, business succession planning, and legacy planning. Through a practical and thoughtful approach, we help clients preserve wealth for future generations, minimize

estate taxes, and avoid unnecessary probate costs. We also serve the unique needs of family businesses and farms.

Thompson Law is a busy, team-oriented workplace where serving clients well is the highest priority. Each staff member plays an important role and is relied upon for the success of the firm. We share family values as well as professionalism, good judgment, and a steady work ethic. Career growth is encouraged, and opportunities are available for those who are motivated and committed to doing excellent work.

Our firm is guided by its core principles of **Faith • Family**

• **Firm**, and we strive to provide an environment where individuals can live out their values while helping clients protect their legacy.

Position Responsibilities

- Consult with prospective clients using the Thompson Law consultation system, with a target client retention rate of 85%.
- Draft and review estate planning documents as needed.
- Manage estate administration and probate matters.
- Direct and oversee office staff in client support, document preparation,
- and execution services, delegating routine processes where appropriate.
- Serve as a subject-matter resource for staff questions.
- Participate in firm marketing efforts, including attending various seminars and events throughout the year, with the expectation of presenting in due time.
- Evaluate client consultations and presentations to improve service quality and retention.
- Build and maintain professional relationships with referral sources.
- Participate in or lead regularly scheduled staff meetings.
- Complete a minimum of 36 Continuing Legal Education (CLE) hours annually.
- Maintain an active South Dakota bar license and be open to obtaining licenses in neighboring states, if not already licensed.
- Maintain conduct and professionalism consistent with the firm's core principles of **Faith • Family • Firm**.

Knowledge, Skills, and Abilities

- Warm, personable, and professional demeanor.
- Ambition to grow your practice, your personal and professional development, and your financial compensation.
- Strong interpersonal and communication skills, with the ability to work comfortably with older clients.
- Ability to explain estate planning concepts clearly and in plain language.

- Energetic, reliable, and team-oriented.
- Excellent written and verbal communication skills.
- Proficient in Microsoft Office and general office technology.
- Strong organizational skills and attention to follow-through.
- Ability to manage multiple tasks and adapt to changing priorities.
- Ability to work independently while contributing effectively to a team.
- Strategic, practical, and creative thinking skills.
- Strong drive and personal accountability.

Benefits Overview

- Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)
- 401(k) Plan + Match
- Personal Development Account
- Long Term Disability Insurance (company paid)
- Charitable Contribution Match
- Costco Membership
- Employee Assistance Program
- Paid Time Off and Paid Holidays (7 per year)

Please email resumes, cover letters, and references to joan@cathompsonlaw.com. This posting will remain open until the position has been filled.

Associate Attorney

Riter Rogers, LLP, which is centrally located in Pierre, has a wide and varied practice of law throughout the state and particularly in central South Dakota. Our firm is seeking an Associate Attorney with 0-5 years experience. The successful candidate will demonstrate a long-term commitment to the firm and the Pierre Community. Applicants must be admitted or awaiting admission to the bar of South Dakota by September, 2026. Compensation is negotiable along with the opportunity for an accelerated partnership track. Interested applicants should submit a cover letter, resume, transcript and a writing sample to: Lindsey Riter-Rapp by email at l.riter-rapp@riterlaw.com. All submissions will be confidential.

Dakota Plains Legal Services - Staff Attorney (PCAP) - Rapid City, SD

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 providing legal representation for indigent criminal defendants to whom DPLS is court appointed in Pennington County.

SALARY/BENEFITS:

Salary starting at \$70,000 plus, based on experience. DPLS has an excellent fringe benefits package including generous leave benefits of 6 weeks paid leave, and 15 paid holidays. Employer paid employee insurance coverage (medical, dental, life, disability). DPLS observes a 34 hour 4-day work week and offers matching 401(k).

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. Some same day travel is required.

APPLICATION INFORMATION:

Please submit a letter of interest and resume to: Kate Korthour, Director of Human Resources, at kkorthour@dpls.org.

CLOSING DATE: Open until filled.

DPLS IS COMMITTED TO EQUAL EMPLOYMENT OPPORTUNITIES FOR ALL WORKERS, REGARDLESS OF RACE, GENDER, DISABILITY OR OTHER PROTECTED CLASS STATUS. DPLS IS COMMITTED TO COMPLIANCE WITH ALL FEDERAL, STATE, AND LOCAL ANTI-DISCRIMINATION LAWS AND REGULATIONS. ALL INTERESTED APPLICANTS ARE ENCOURAGED TO APPLY.

Assistant Federal Public Defender (Omaha)

POSITION ANNOUNCEMENT 26-01

Assistant Federal Public Defender (Omaha)
Federal Public Defender for the District of Nebraska

The Federal Public Defender for the District of Nebraska is accepting applications for the position of Assistant Federal Public Defender (AFPD) in our Omaha office. This is a full-time position for a team player who wants to fight hard on behalf of the indigent accused.

Position Overview:

Assistant Federal Public Defenders defend indigent persons accused of federal crimes. AFPDs must protect the rights of their clients and zealously advocate for the best possible outcome, both in court and in writing. AFPDs develop release plans, review discovery, research the law, write briefs and motions, develop litigation strategies, consult with experts, visit and advise clients (many of whom are detained in jails and prisons), negotiate favorable resolutions, try jury trials, navigate complex federal sentencing guidelines

and statutes, advocate for fair sentences and alternative outcomes, and appeal their losses to the Eighth Circuit Court of Appeals and the U.S. Supreme Court. Some travel – for investigation, litigation, and training – will be required. AFPDs must have unwavering integrity and be willing to adhere to a Code of Conduct.

Qualifications/Requirements:

Applicants must:

- Have graduated from an accredited law school with a Juris Doctor degree;
- Be admitted to practice before, and in good standing with, the highest court of a state;
- Undergo and pass a background investigation, including but not limited to an FBI name and fingerprint check and an IRS tax check; and
- Be licensed to practice in the U.S. District Court for the District of Nebraska by the time of entrance on duty.
- This is not an entry level position. Successful applicants will:
 - Have criminal-law experience, including trial and appellate practice, preferably in federal court;
 - Have excellent courtroom skills and strong research-and-writing abilities;
 - Be proficient at: engaging and counseling clients, digesting large case files and investigative materials, developing litigation strategies, drafting pleadings, conducting evidentiary hearings and trials, working with experts and other witnesses, and supervising a defense team.
- Spanish fluency and language skills are valued but not required.

Salary and Benefits:

The AFPD starting salary range is \$77,515 up to \$181,878 for nine years or more experience. The position offers federal employment benefits, including participation in: health- and life-insurance programs, the Federal Employees Retirement System (pension), and Thrift Saving Plan (401K). This position is at-will, excepted service and does not carry the tenure rights of Civil Service. Electronic Funds Transfer (Direct Deposit) is required for payment compensation for employees. The position is subject to the availability of funds.

Interested applicants should send the following documents as a single PDF file to Martin Adams, Administrative Officer, at martin_adams@fd.org:

- A cover letter mentioning Position Announcement No. 26-01;
- A current resume; and
- Three references (including contact information).

No phone calls, please. **The Federal Public Defender is an equal-opportunity employer.** Application deadline is **March 1, 2026.**



LAWRENCE COUNTY JOB OPENING NOTICE

Date: January 23, 2026

Job Title: Deputy State's Attorney

Department/Office: Lawrence County State's Attorney's Office

Closing Date: Until filled

Start Date: As soon as possible

Starting Pay: Depending on experience

Work Schedule: Monday through Friday 8:00 a.m. to 5:00 p.m.

**Submit Application/
Résumé to:** Shelly Baumann sbaumann@lawrence.sd.us

Description of Duties: All aspects of criminal and juvenile prosecution

Experience/Education: Law degree

**Additional
Information:** Varied and interesting work in criminal prosecution



Lawrence County is an equal opportunity employer.

UPCOMING *Events*

13
MAR

**SDYLS SPRING BOOTCAMP –
DEADWOOD**

8:30 am – 5:00 PM

18
MAR

**MARCH LAW FOR LUNCH | FINCEN
REPORTING: FOLLOWUP QUESTIONS**

12:30 PM – 1:30 PM

23
APR

**BANKRUPTCY ROUNDTABLE
DISCUSSIONS**

This event is put on by the U.S. Bankruptcy
Court for the District of South Dakota

8
MAY

**2026 MAY JOINT FAMILY/CRIMINAL
LAW CLE | RAPID CITY**

8:00 AM – 5:00 PM

For more details and updates about these events, please visit
our website.

<https://www.statebarofsouthdakota.com/>