

**UNIFIED JUDICIAL SYSTEM
COURT STRUCTURE**

SOUTH DAKOTA JUDICIAL SYSTEM

Supreme Court

Chief Justice and Four Justices

- Φ Original jurisdiction in cases involving interests of state
- Φ Issues original and remedial writs
- Φ Renders advisory opinions to Governor on issues involving executive power
- Φ Appellate jurisdiction over circuit court decisions
- Φ Rule-making power over lower court practice and procedure
- Φ Administrative control over Unified Judicial System
- Φ Controls admissions to and disciplines members of the State Bar

Circuit Court

7 Presiding Judges and 31 Circuit Court Judges in 7 Circuits

- Φ Original jurisdiction in all civil and criminal actions
- Φ Exclusive jurisdiction in felony trials, arraignments and all types of civil actions except areas of concurrent jurisdiction shared with magistrate courts
- Φ Appellate jurisdiction over magistrate court decisions

Magistrate Court

Clerk Magistrate

Functions usually performed by clerks

Magistrate Judge

11 full time, 3 part time in 7 circuits

Concurrent jurisdiction with circuit courts to: Φ Committing magistrate for all courts

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| <ul style="list-style-type: none">Φ Receive depositionsΦ Issue warrantsΦ Conduct certain preliminary hearingsΦ Set bailΦ Appoint counselΦ Accept pleas for Class 2 misdemeanorsΦ Conduct hearings for petty offensesΦ Render judgments for uncontested small claimsΦ Perform marriages | <p>Conducts:</p> <ul style="list-style-type: none">Φ Preliminary hearings for all criminal prosecutionsΦ Trials of criminal misdemeanorΦ Trials of civil actions if the debt, damage, claim or value of the property involved does not exceed \$10,000Φ Small claims proceedings if the debt, damage, claim or value of the property involved does not exceed \$8,000 |
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SOUTH DAKOTA JUDICIAL SYSTEM

The South Dakota Unified Judicial System, as shown on the previous page, is comprised of two levels of courts having interrelated jurisdictions. The Supreme Court, in addition to its own areas of original jurisdiction, provides administrative leadership for the legal and judicial system, and serves as the state's appellate court. The circuit courts are the lower courts of original jurisdiction through which the bulk of criminal proceedings and civil litigation is processed. The circuit courts employ magistrate judges to assist in processing misdemeanor cases and less serious civil actions.

SUPREME COURT

As the state's highest court and the court of last resort for state appellate actions, the chief justice and four justices comprising the South Dakota Supreme Court are the final judicial authority on all matters involving the legal and judicial system of South Dakota.

In considering state issues and in making decisions about cases, the Court generally follows precedent -- that is, their own previous decisions, with some allowance for progressive change. They are further constrained by state and federal constitutions, state laws, and federal court decisions.

The court's judgment to affirm or reverse a lower court decision is based on a majority vote of the five justices. The responsibility for writing the majority opinion is assigned by lot, although each justice has an unrestricted right to prepare a dissenting or concurring opinion to accompany the majority opinion. The opinions are published in the Northwest Reporter.

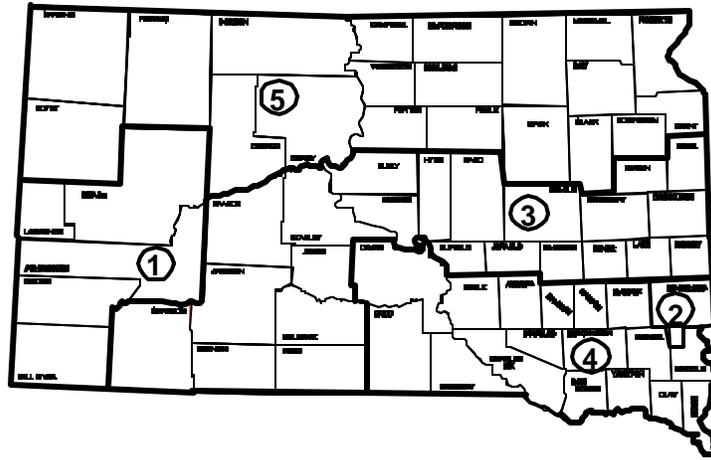
The Supreme Court term extends the full calendar year. Sessions of Court are usually held in the Supreme Court Courtroom in the State Capitol, although special sessions may be held

elsewhere in the state to allow South Dakota citizens to observe the Court at work.

Appointment and Membership

Under the terms of a 1980 constitutional amendment, Supreme Court justices are appointed by the governor from a list of nominees selected by the Judicial Qualifications Commission. All who sit on the Supreme Court must be licensed to practice law in the state and permanent justices must be voting residents of the district to which they are appointed at the time they take office (Map 1 on page 3).

Map 1. South Dakota Supreme Court Appointment Districts



Jurisdiction

After their initial three years of service on the Court, newly appointed justices must stand, unopposed, for reconfirmation in a statewide election. Thereafter, each justice must stand for retention election every eighth year. Justice Sabers (appointed in 1986), Justice Konenkamp (appointed in 1994), and Chief Justice Gilbertson (appointed in 1995) were each retained in the November 1998 general election. Each of these three along with Justice Zinter and Justice Meierhenry (both appointed in 2002) will stand retention election in 2006.

There is no formal age requirement for those who serve on the Court, but retirement is mandatory at the age of seventy. A retired justice may be called back into temporary judicial service in any of the state's courts if they wish to make themselves available. It is also not unusual for a circuit judge to temporarily sit with the Supreme Court when a justice is disqualified because of personal involvement in a case or because of illness or the departure of a justice.

The Supreme Court's original jurisdiction, i.e. actions which must start in the Supreme Court, extends generally to all issues involving the interests of the state and includes the power to issue original and remedial writs when the interests of the state are directly involved, or when ordinary jurisdiction and remedies are inadequate to provide relief. At the governor's request, the Court may render advisory opinions on issues involving executive power.

The appellate jurisdiction of the Court, i.e. hearing appeals of lower court decisions, constitutes the largest portion of their workload. Appellate control ensures that circuit judges adhere to accepted principles of justice and is one significant way in which the Supreme Court serves the public.

In addition to their original and appellate jurisdictional duties, the justices exercise administrative authority over the judicial and legal system of the state by:

- Controlling admissions to and disciplining members of the State Bar. The discharge of these duties allows the Court to maintain control over the professional conduct of the attorneys who practice law in the state.
- Establishing a code of conduct which defines appropriate behavioral criteria for members of the legal community.
- Promulgating, reviewing, maintaining and publishing Supreme Court rules necessary to ensure the efficient and speedy administration of justice. Supreme Court rules become part of state law.
- Establishing administrative rules and regulations governing Unified Judicial System personnel.
- Appointing such personnel as may be appropriate to serve the needs of the state judiciary.

The Court's administrative responsibility is exercised through the power of the chief justice. SDCL 16-2-20 grants the chief justice extensive authority to take any action necessary to ensure the efficiency of the judicial process. The Court is assisted in this role by the state court administrator and staff, and by the presiding judges.