

# **CIRCUIT COURT**

## CIRCUIT COURT

Circuit courts are the state's trial courts of general jurisdiction. South Dakota has seven circuits (Map 2 on page 8), 39 circuit judges and 13 magistrate judges (See page 10). Circuit judges are elected by the voters of the circuit where they serve. The judges must be voting residents of their circuit at the time they take office. In the event of a vacancy, the Governor appoints a replacement from a list of nominees selected by the Judicial Qualifications Commission.

One judge in each circuit is appointed by the Chief Justice of the Supreme Court to act as presiding circuit judge. These seven presiding judges have direct supervisory control over their circuit's procedures and personnel. Administrative authority of the presiding judges includes:

- Supervising the calendar for circuit court trials and hearings
- Assigning circuit judges and arranging schedules for sessions of circuit court
- Appointing personnel within the circuit and establishing their rate of compensation as authorized by the Supreme Court and adminis-

tered by the State Court Administrator.

- Arranging for the proper drawing of jury panels and for reporting of cases
- Periodically reviewing and evaluating personnel performance in the circuit
- Monitoring circuit judge schedules
- Authorizing the fine and bond schedule for use by magistrates and law enforcement officers

Circuit courts share jurisdiction over minor court actions with magistrate courts, but the arraignment and trial of all felony cases are the exclusive jurisdiction of circuit courts. Civil jurisdiction of the circuit courts includes cases involving disputes of property titles or boundaries; divorces or annulments; probate, guardianship or settlement of estates; juvenile proceedings; and civil disputes in which damages claimed are in excess of \$10,000.

Appeals from magistrate court, a subdivision of the circuit court, are heard by circuit court judges. Decisions in small claims cases cannot be appealed.

## MAGISTRATE COURT

Magistrate courts assist the circuit courts in disposing of misdemeanor criminal cases and minor civil actions. These courts of limited jurisdiction make the judicial system more accessible to the public by providing a means of direct court contact for the

average citizen. The jurisdiction of the magistrate court varies depending on whether a clerk (lay) magistrate or a magistrate judge presides.

Most magistrates in South Dakota are clerk (lay) magistrates, which means

they are not attorneys. Clerk (lay) magistrate training is provided by the State Court Administrator's Office. State law assigns extensive authority to the lay magistrate. They are authorized to:

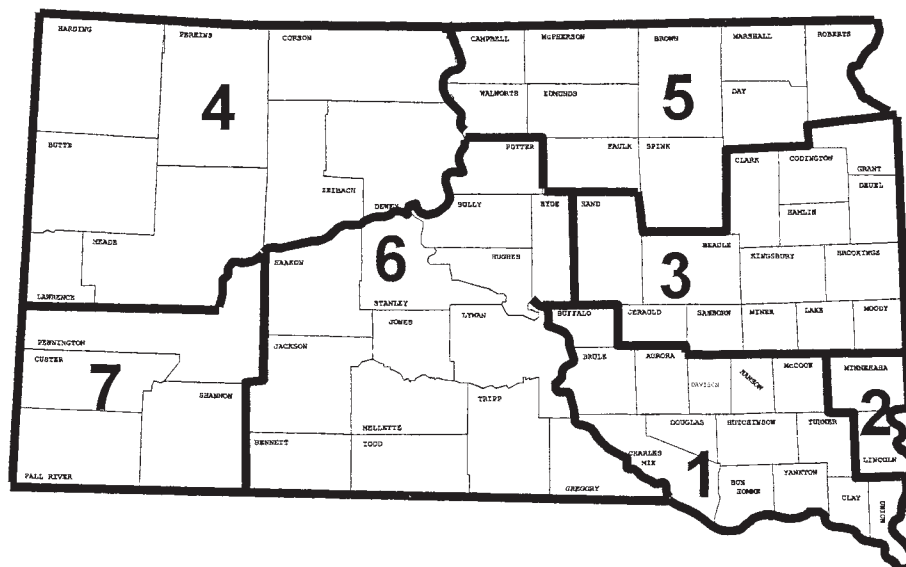
- Perform marriages
- Set bond in criminal cases
- Accept not guilty, nolo contendere, and guilty pleas and impose fines in minor criminal cases and violations of municipal ordinances in accordance with the Fine and Bond Schedule
- Conduct preliminary hearings in criminal cases unless the accused demands a hearing before a circuit or magistrate judge
- Hear uncontested civil and small claims cases
- Issue arrest warrants and search warrants
- Appoint legal counsel for defendants who are unable to pay for a lawyer

- Take depositions and administer oaths

Full-time and part-time magistrate judges are appointed by the presiding judges with the approval of the Supreme Court. They must be licensed to practice law in South Dakota, and so have broader judicial powers than clerk (lay) magistrates. In addition to the above, they may:

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

Map 2. South Dakota Judicial Circuits and Counties



## Presiding Judges' Meetings

The seven presiding judges meet regularly with the Chief Justice and the State Court Administrator to discuss policy, design and implement uniform programs and procedures, and keep abreast of the latest developments in the court system. In addition to providing an opportunity for circuit personnel to offer direct input into administrative policy decisions, these meetings promote uniformity and administrative efficiency among judicial and nonjudicial staff.

## Judicial Conference

The Judicial Conference is an annual meeting of all circuit judges, magistrate judges and Supreme Court justices. Statutorily required, the Judicial Conference gives judges the opportunity to study the organization, rules, practices and procedures of the judicial system and to vote on legislative and Supreme Court rule changes.

## Judicial Qualifications Commission

The Judicial Qualifications Commission was created by the South Dakota

Constitution to investigate complaints against judges believed to be acting improperly.

The seven-member commission is comprised of two circuit court judges, elected by the Judicial Conference; three attorneys, appointed by the President of the State Bar; and two lay persons, appointed by the Governor. The four-year terms of the members are staggered to promote administrative continuity.

The nonpartisan commission receives complaints against justices or judges, hires personnel to investigate those complaints, and conducts confidential hearings to determine whether the complaint is justified. On recommendation of the Judicial Qualifications Commission and after appropriate hearing, the Supreme Court may censure, remove, or retire such a person.

The commission also reviews applications for vacancies on the Supreme Court and circuit court benches and nominates two or more of the most qualified to the governor. The governor appoints a nominee to fill the vacancy.

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**BENCH PERSONNEL BY JUDICIAL CIRCUIT as of October 1, 2007**

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**FIRST JUDICIAL CIRCUIT, Judges:**

Rusch, Arthur L.; Presiding Judge  
Anderson, Bruce V.  
Bjorkman, Timothy W.  
Eng, Glen W.  
Jensen, Steven R.  
O'Brien, Sean M.

Magistrate Judges:

Bern, Tami A.  
Kiner, Patrick W.

**SECOND JUDICIAL CIRCUIT, Judges:**

Severson, Glen A.; Presiding Judge  
Caldwell, Kathleen K.  
Hoffman, Doug E.  
Lieberman, Peter H.  
Neiles, Joseph  
Riepel, Patricia C.  
Srstka, William, Jr.  
Tiede, Stuart L.  
Zell, Brad G.

Magistrate Judges:

Dietrich, Alan D.  
Hinrichs, John R.  
Irvine, Julie L.  
Sage, Doyle L.

**THIRD JUDICIAL CIRCUIT, Judges:**

Gienapp, David R. Presiding Judge  
Erickson, Jon R.  
Foley, Vincent A.  
Roehr, Ronald K.  
Timm, Robert L.  
Tucker, Tim D.

Magistrate Judge:

Pierce, Leann \*

**FOURTH JUDICIAL CIRCUIT, Judges:**

Johnson, Warren G.; Presiding Judge  
Bastian, John W.  
Eckrich, Jerome A.  
Macy, Randall L.

Magistrate Judges:

Palmer Percy, Michelle

**FIFTH JUDICIAL CIRCUIT, Judges:**

Von Wald, Jack R.; Presiding Judge  
Flemmer, Jon S.  
Myren, Scott P.  
Portra, Tony L.

Magistrate Judge:

Anderson, Mark A.

**SIXTH JUDICIAL CIRCUIT, Judges:**

Wilbur, Lori S.; Presiding Judge  
Anderson, James W.  
Barnett, Mark W.  
Trandahl, Kathleen F.

Magistrate Judge:

Smith, Mark R.

**SEVENTH JUDICIAL CIRCUIT, Judges:**

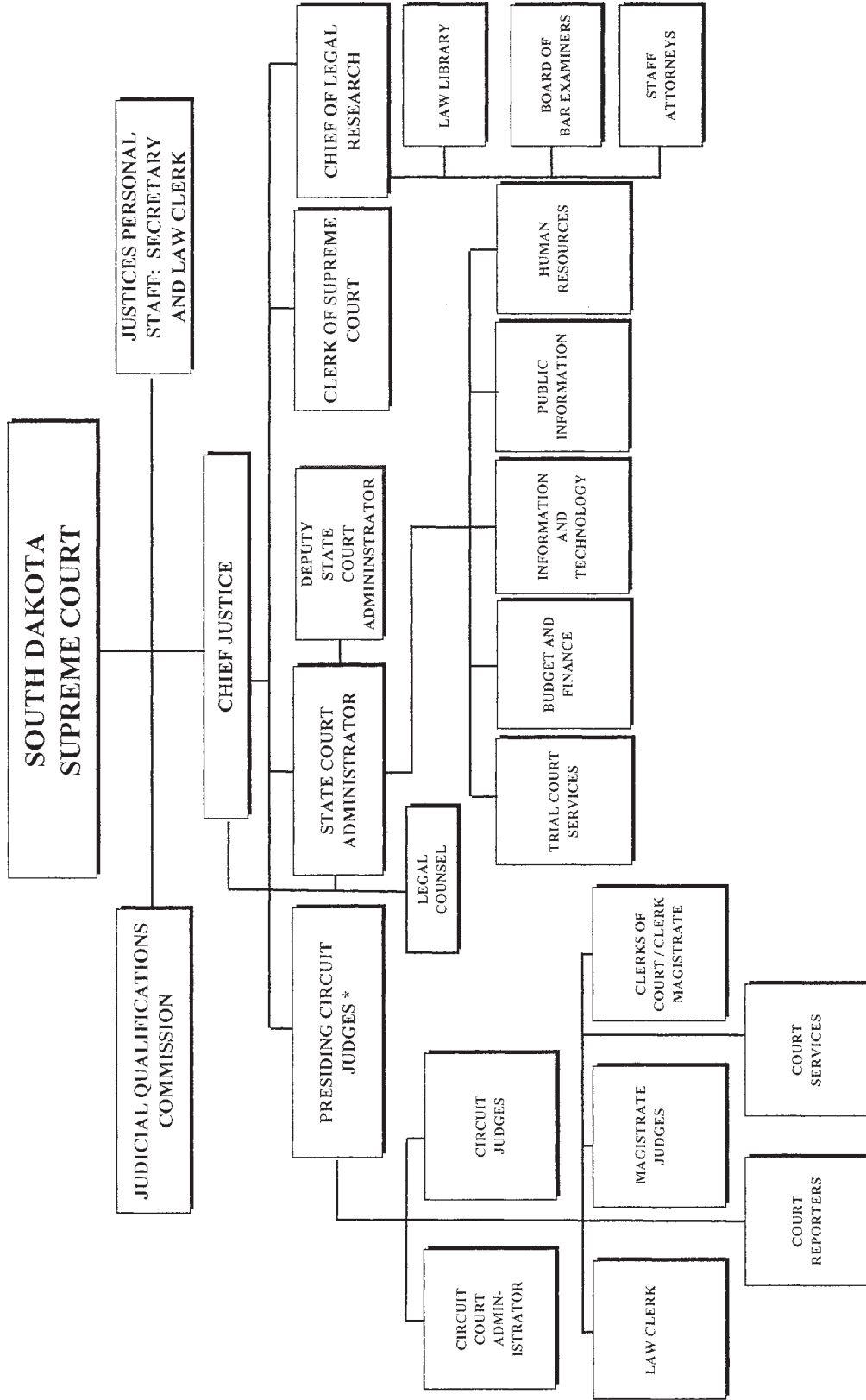
Davis, Jeff W.; Presiding Judge  
Delaney, John J.  
Fuller, A. Peter  
Kern, Janine M.  
Tice, Merton B., Jr.  
Trimble, Thomas L.

Magistrate Judges:

O'Connor, Michael J.  
Pahlke, Shawn J.  
Severns, William L.

\* Indicates Part-Time Magistrate

Table 2. SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM  
Organizational Chart



\* One presiding judge for each circuit.