

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 17 2006

Shirley A. Johnson Long
Clerk

IN THE MATTER OF THE ADOPTION)
OF A NEW RULE TO BE DESIGNATED)
AT SDCL 15-6-51(d))

RULE 06-51

A hearing was held on February 16, 2006, at Pierre, South Dakota, relating to the adoption of a new rule to be designated at SDCL 15-6-51(d), and the Court having considered the proposed adoption of a new rule, the correspondence and oral presentations relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-6-51(d) be and it is hereby adopted to read in its entirety as follows:

SDCL 15-6-51(d). Assigning error-Plain error.

- (1) A party may assign as error:
 - (A) an error in an instruction actually given if that party made a proper objection under § 15-6-51(c), or
 - (B) a failure to give an instruction if that party made a proper request under § 15-6-51(a), and - unless the court made a definitive ruling on the record rejecting the request - also made a proper objection under § 15-6-51(c).
- (2) A court may consider a plain error in the instructions affecting substantial rights that has not been preserved as required by § 15-6-51(d) (1) (A) or (B).

IT IS FURTHER ORDERED that this rule shall become effective July 1, 2006.

DATED at Pierre, South Dakota, this 17th day of March 2006.

BY THE COURT:

David Gilbertson

David Gilbertson, Chief Justice

ATTEST.

[Signature]
Clerk of the Supreme Court
(SEAL)