

CIRCUIT COURT

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Circuit courts are the state's trial courts of general jurisdiction. South Dakota has seven circuits (Map 2 on page 8), 41 circuit judges and 13 magistrate judges (See page 11). 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 \$12,000.

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 magistrate judge or a clerk (lay) magistrate presides. Clerk (lay) magistrates are not attorneys. Both magistrate judges and clerk magistrates are appointed by the presiding judge.

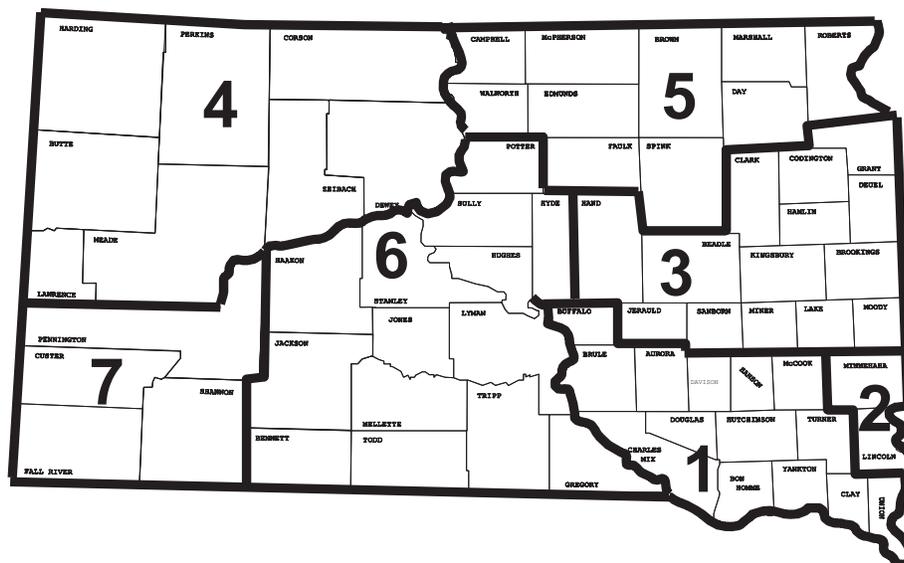
State law assigns authority to a clerk (lay) magistrate, however, their responsibilities are subject to circuit restrictions. Clerk (lay) magistrates responsibilities may include:

- 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 therefore, have broader judicial powers than clerk (lay) magistrates. Magistrate judge’s responsibilities may also include:

- 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.

A review of the complaints received by the Judicial Qualifications Commission and the dispositions for the past three years is included on the following page.

Judicial Qualifications Commission

State of South Dakota

Complaints Received and Dispositions (New report in FY2009 Annual Report)

	FY2009	FY2008	FY2007
Written Complaints Received *	27	34	16
Complaints Disposed of **	32	32	15
Type of Cases:			
Prisoner Complaints (Includes Habeas Corpus)	4	6	7
Divorce/Child Custody/Child Support Issues	11	10	4
Protection Order Cases	0	0	0
Civil Trial Issues (Includes Decisions)	6	6	0
Criminal Trial Issues (Includes Sentencing)	2	6	1
Personal Conduct	0	1	0
Small Claims	3	5	2
Guardianship/Conservatorship	0	0	2
Unknown	1	0	0
Nature of Claims in Complaints:			
Inappropriate Conduct/Abuse of Position	2	3	2
On Bench Abuse of Authority	0	0	3
Lack of Demeanor/Decorum	4	7	2
Bias/Appearance of Bias	5	8	4
Unhappy with Result	16	16	10
Commission Dispositions:			
1. Dismissal due to:			
a. Insufficient Evidence to Proceed (Unsigned Complaint, Complainant Uncooperative)	5	6	3
b. Lack of Jurisdiction***	2	13	2
c. Resigned Due to JQC Investigation	0	0	0
d. Unsubstantiated	6	8	4
e. No Violation Found	16	5	6
2. Private Reprimand	3	0	0
3. Deferred Disciplinary Agreement	0	0	0
4. Public Censure	0	0	0
5. Recommendation for Suspension	0	0	0
6. Recommendation for Removal	0	0	0

*Written Complaints Received, Type of Cases and Nature of Claims in Complaints reflect complaints received in that fiscal year.

**Complaints Disposed of and Commission Dispositions reflect some complaints received in that fiscal year but not disposed of until the following fiscal year and some complaints that were both received and disposed of in the same fiscal year.

***JQC does not have the authority to direct a judge to take legal action or to review a case for judicial error, mistake or other legal grounds. Those functions are for the State Supreme Court. Therefore, allegations stemming from a judge's ruling or exercise of discretion do not provide a basis (jurisdiction) for JQC action.

October 2009

BENCH PERSONNEL BY JUDICIAL CIRCUIT as of October 2009

FIRST JUDICIAL CIRCUIT, Judges:

Rusch, Arthur L.; Presiding Judge (appointed 1994)
Anderson, Bruce V. (appointed 2006)
Bjorkman, Timothy W. (elected 2006)
Eng, Glen W. (appointed 2000)
Jensen, Steven R. (appointed 2003)
O'Brien, Sean M. (appointed 2007)

Magistrate Judges:

Bern, Tami A.
Kiner, Patrick W.

SECOND JUDICIAL CIRCUIT, Judges:

Caldwell, Kathleen K.; Presiding Judge (appointed 2002)
Hoffman, Doug E. (appointed 2007)
Houwman, Robin Jacobson (appointed 2009)
Lieberman, Peter H. (appointed 1995)
Long, Larry E. (appointed 2009)
Neiles, Joseph (appointed 1997)
Riepel, Patricia C. (elected 2006)
Srstka, William, Jr. (appointed 1991)
Tiede, Stuart L. (appointed 2001)
Zell, Brad G. (appointed 2003)

Magistrate Judges:

Dietrich, Alan D.
Hinrichs, John R.
Schlimgen, John A.
Sage, Doyle L.

THIRD JUDICIAL CIRCUIT, Judges:

Giennapp, David R.; Presiding Judge (appointed 2002)
Erickson, Jon R. (appointed 1988)
Foley, Vincent A. (elected 2006)
Roehr, Ronald K. (appointed 1994)
Timm, Robert L. (appointed 1987)
Tucker, Tim D. (appointed 1987)

Magistrate Judge:

Pierce, LeeAnn *

FOURTH JUDICIAL CIRCUIT, Judges:

Johnson, Warren G.; Presiding Judge (appointed 1982)
Bastian, John W. (appointed 1993)
Eckrich, Jerome A. (elected 1998)
Macy, Randall L. (appointed 2005)

Magistrate Judges:

Palmer Percy, Michelle

* Indicates Part-Time Magistrate

** Circuit Judge appointments and elected dates may vary from the actual effective date the Oath was taken.

FIFTH JUDICIAL CIRCUIT, Judges:

Von Wald, Jack R.; Presiding Judge (appointed 1994)
Flemmer, Jon S. (elected 1998)
Myren, Scott P. (appointed 2004)
Portra, Tony L. (appointed 2006)

Magistrate Judge:

Anderson, Mark A.

SIXTH JUDICIAL CIRCUIT, Judges:

Wilbur, Lori S.; Presiding Judge (elected 1998)
Barnett, Mark W. (appointed 2007)
Trandahl, Kathleen F. (appointed 1994)
Brown, John L. (appointed 2008)

Magistrate Judge:

Smith, Mark R.

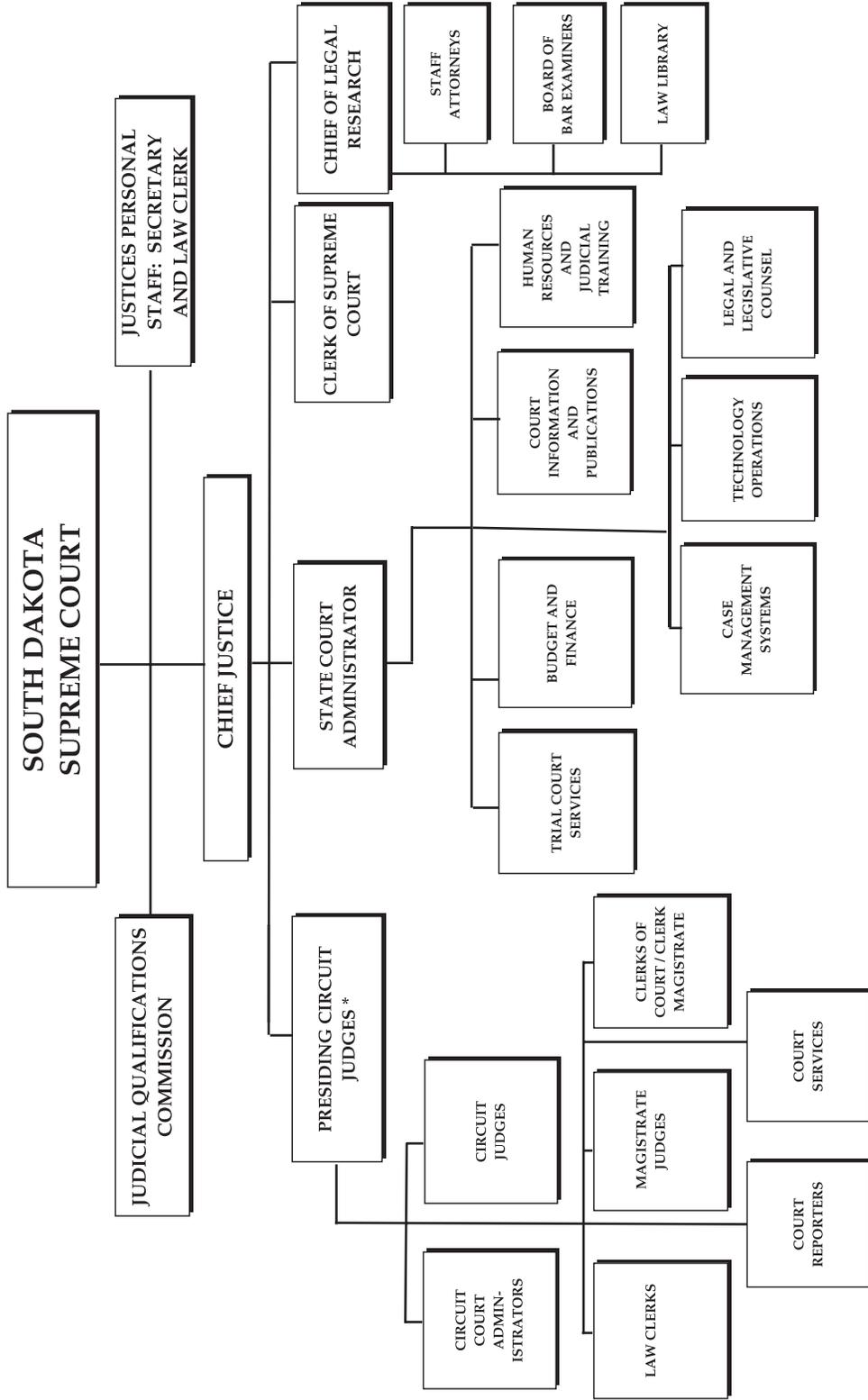
SEVENTH JUDICIAL CIRCUIT, Judges:

Davis, Jeff W.; Presiding Judge (appointed 1979)
Delaney, John J. (appointed 2002)
Fuller, A. Peter (appointed 2003)
Kern, Janine M. (appointed 1996)
Tice, Merton B., Jr. (appointed 1975)
Thorstenson, Mary P. (oath to be taken)
Trimble, Thomas L. (appointed 1995)

Magistrate Judges:

Bogue, Scott M.
Marshall, Mark F.
Pahlke, Shawn J.

Table 2. SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
Organizational Chart



* One presiding judge for each circuit.