

— SOUTH DAKOTA SUPREME COURT —

PHOTOGRAPHIC HISTORY





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The South Dakota Supreme Court is proud of its long history of service to the citizens of South Dakota. From the first Dakota Territory Supreme Court to the present, the Supreme Court has worked to safeguard the rights of every litigant and assure due process of law. We hope you enjoy this brief history of the South Dakota Supreme Court.



For the Court
Chief Justice Steven R. Jensen



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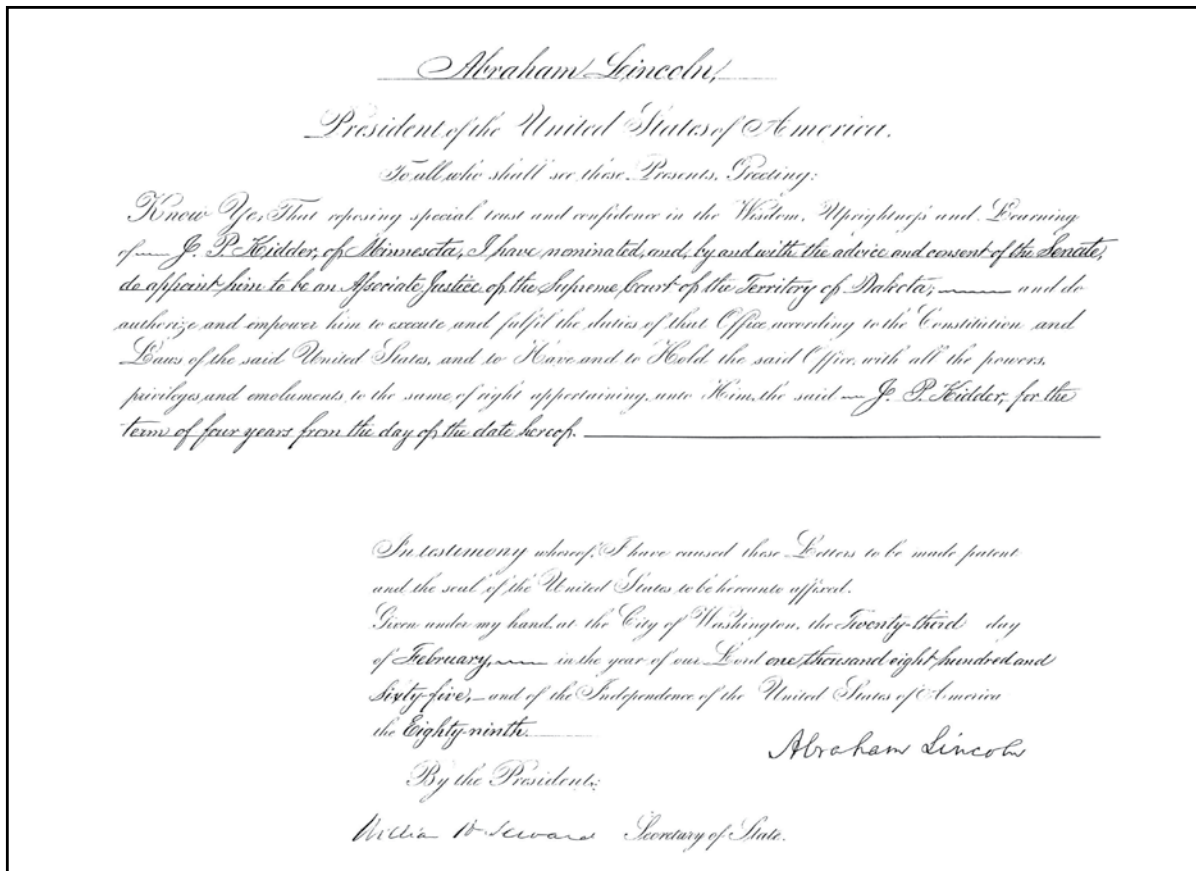
SOUTH DAKOTA SUPREME COURT 2024

L-R: Justice Patricia J. DeVaney, Pierre, Third District; Justice Janine M. Kern, Rapid City, First District; Chief Justice Steven R. Jensen, Dakota Dunes, Fourth District; Justice Mark E. Salter, Sioux Falls, Second District; and Justice Scott P. Myren, Mound City, Fifth District (Photo: Sleger's Studio, Highmore)

DAKOTA TERRITORY SUPREME COURT

On March 2, 1861, President James Buchanan approved the legislative act of Congress that created the Dakota Territory. The government of Dakota Territory was divided into three branches of government: executive, legislative, and judicial. The judicial power of the territory was vested in a supreme court, district courts, probate courts, and justices of the peace.

In 1861, President Abraham Lincoln appointed Philemon Bliss, Joseph L. Williams, and George P. Williston as the first judges of the Dakota Territory Supreme Court.



In 1865, President Abraham Lincoln appointed Jefferson P. Kidder to the Dakota Territory Supreme Court.



Members of the Dakota Territory Supreme Court

The President of the United States appointed all members of the Dakota Territory Supreme Court because the territorial court was part of the federal judicial system. Between 1861 and 1889, when South Dakota became a state, 30 presidential appointees served as judges on the Supreme Court of Dakota Territory.

George P. Williston.....	1861-1864	A.J. Edgerton.....	1882-1886
Philemon Bliss	1861-1865	William E. Church.....	1883-1886
Joseph L. Williams	1861-1865	Cornelius S. Palmer.....	1883-1888
Ara Bartlett.....	1864-1869	William H. Francis	1884-1888
William E. Gleason	1865-1867	Seward Smith	1884-1885*
Jefferson P. Kidder	1865-1875	Louis K. Church	1885-1887
John W. Boyle.....	1867-1869	William B. McConnell	1885-1889
Wilmot W. Brookings.....	1869-1873	Bartlett Tripp.....	1886-1889
George W. French.....	1869-1873	Charles M. Thomas	1887-1889
Alanson H. Barnes	1873-1881	James Spencer.....	1887-1889
Peter C. Shannon.....	1873-1882	John E. Carland	1888-1889
Granville G. Bennett	1875-1878	Roderick Rose.....	1888-1889
Jefferson P. Kidder	1879-1883	C.F. Templeton	1888-1889
Gideon C. Moody	1878-1883	L.W. Crofoot.....	1888-1889
Sanford A. Hudson	1881-1885	Frank R. Aikens.....	1889-1894

** Suspended by President Grover Cleveland*



First Dakota Territory Supreme Court

The Dakota Territory Supreme Court was comprised of three judges. In 1879, another associate judge was added. The number of judges increased to six in 1884 and to eight in 1888.

The Dakota Territory Supreme Court had little appellate business and, in fact, the first time it met to hear appeals was on Dec. 3, 1867, in Yankton. However, members of the Court were not idle. They also served as the only trial judges for Dakota Territory.



1867 Dakota Territory Supreme Court...

1867 Supreme Court of Dakota Territory conducting business at its first meeting as an appeals court. Members of the Court at its first sitting were Jefferson P. Kidder, Ara Bartlett, and John W. Boyle. (Photo: South Dakota State Historical Society)



1885 Dakota Territory Supreme Court

The decisions of the Dakota Territory Supreme Court, cited in “Dakota Reports,” cover six volumes. The Dakota Territory Supreme Court was dissolved in 1889, when President Benjamin Harrison proclaimed statehood for South Dakota.



1885 Dakota Territory Supreme Court...

L-R: Hon. Seward Smith, Hon. William E. Church, Hon. Alonzo J. Edgerton, Hon. Sanford Hudson, Hon. Cornelius S. Palmer, and Hon. William H. Francis. (Photo: North Dakota State Historical Society)



FIRST SOUTH DAKOTA SUPREME COURT

The 1889 South Dakota Constitution provided for three branches of government: executive, legislative, and judicial. The judicial branch consisted of a supreme court, circuit courts, county courts, and justices of the peace. Three judges, each elected from a district, comprised the South Dakota Supreme Court. The judges ran on political party tickets, after nomination in the party primary process, just as other elected state officials.

On Oct. 1, 1889, a statewide election was held in South Dakota to:

1. Approve the new state constitution.
2. Select a temporary capital city.
3. Elect a governor, legislature, and judges for the Supreme Court and circuit courts.

The judges elected to the first South Dakota Supreme Court were Dighton Corson, Alphonso G. Kellam, and John E. Bennett.



1889 South Dakota Supreme Court...

Newly-elected legislative delegation and Supreme Court judges leaving Deadwood in 1889.
(Photo: South Dakota State Historical Society)



First Oath Ceremony

On Oct. 15, 1889, the newly-elected officers for the state of South Dakota met in Pierre to take the oath of office. There was no capitol building for the new officers because Pierre was the temporary capital site. The oath for the new officers was administered at the Hughes County Courthouse in Pierre.

The Daily Capital described the oath-taking ceremony for the new state officers in the Oct. 16, 1889, edition of the newspaper:

“ Never was there a more auspicious day for the launching of the ship of state of South Dakota. It was a perfect day. The officers all assembled on the front veranda of the courthouse in a semicircle. The oath of office was administered by Territorial Presiding Judge Bartlett Tripp and was very short. Most of the people supposed Governor Mellette would make an inauguration speech, but in this they were disappointed as no speeches were made. ”



Oaths of the first state officials for the new state of South Dakota were taken at the Hughes County Courthouse in 1889. (Photo: South Dakota State Historical Society)



Supreme Court Opening Ceremony

The South Dakota Supreme Court began its first term of court on Feb. 4, 1890, in the courtroom of the Hughes County Courthouse. The Feb. 6, 1890, Free Press described the opening of the Supreme Court:

“ A large delegation of attorneys, ladies, and citizens were present to witness the impressive ceremony of opening the Court. At the time set for opening, Presiding Judge Dighton Corson, followed by Judges A.G. Kellam and J. E. Bennett, entered from their private room. As they took their positions, the attorneys and audience arose to their feet as a due mark of respect to the dignity and the majesty of the law. ”

Presiding Judge Corson administered the oath to 57 attorneys who were admitted to practice before the Supreme Court. Judge C.H. Winsor of Sioux Falls, the oldest member of the Bar, was granted the distinction of having his name entered first on the roll of attorneys. The Court then proceeded to hear cases.



First Supreme Court Session...

The first Supreme Court session was held in the Hughes County Courthouse in Pierre. L-R: Clerk Ivan W. Goodner, Judge Alphonso G. Kellam, Presiding Judge Dighton Corson, and Judge John E. Bennett. (Photo: South Dakota State Historical Society)



HOME OF THE SUPREME COURT

The citizens of Pierre raised \$30,000 to erect a wooden capitol on the southwest corner of the present capitol grounds. The wooden South Dakota capitol was ready for occupancy by the Governor and the Legislature on Jan. 9, 1890. Unfortunately, the capitol was too small to house the Supreme Court. The Supreme Court used offices in the Hughes County Courthouse and jointly shared the courtroom with the circuit court judge.

Move Into Wooden Capitol

In 1891, the Legislature approved \$7,000 to build an east wing addition to the wooden capitol to provide office space for the Supreme Court and other state officers. The two-story, 50 by 60-foot addition was completed on Oct. 1, 1891. The Supreme Court moved into the addition in 1891 and remained there until completion of the current limestone and granite capitol in 1910.



Wooden Capitol With East Wing Addition...

South Dakota's wooden capitol with the east wing addition on the right side of the photograph. (Photo: South Dakota State Historical Society)



No Courtroom in Wooden Capitol

The addition to the wooden capitol did not include a courtroom. The Supreme Court held its first session in the capitol building in the Senate chamber on Oct. 13, 1891, with 62 cases on its calendar. Both the House and Senate chambers were available for official and private use because the Legislature met every two years for 60-day terms. Frequently, the Supreme Court was in session downstairs in the Senate chamber, while the federal court was in session upstairs in the House chamber.



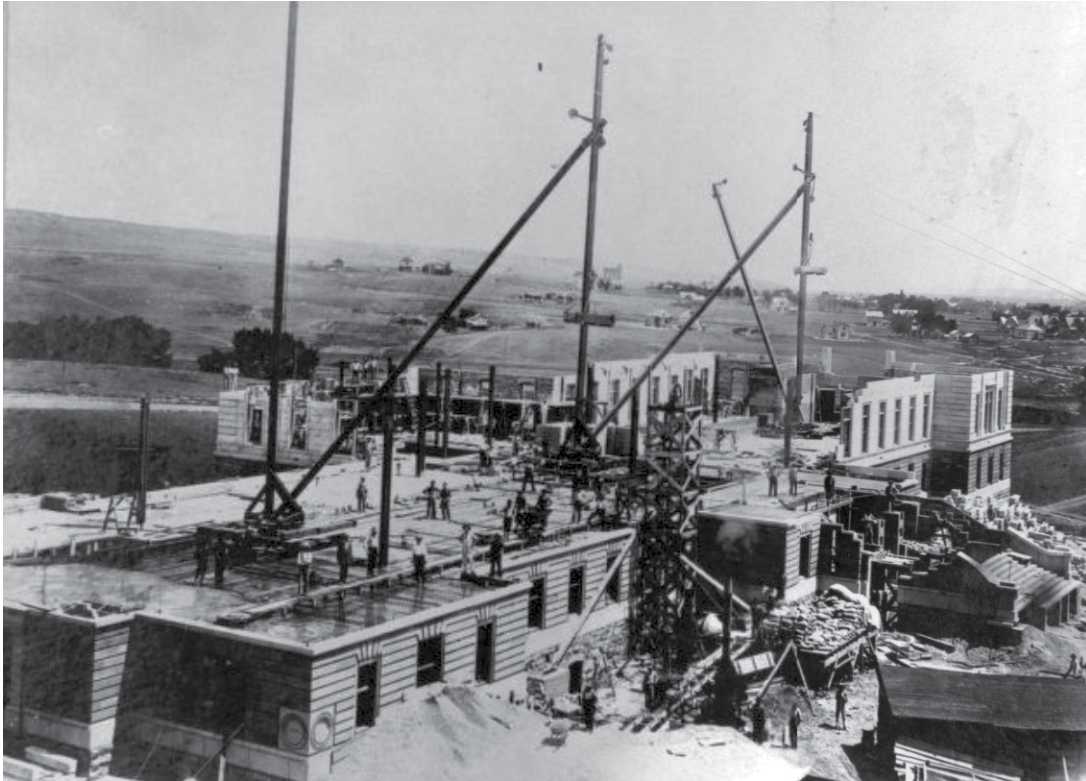
1903 Statehouse Workforce...

Members of the Supreme Court pose with the statehouse workforce in 1903 in front of the wooden capitol. Front row second from left, Judge Dighton Corson; third from left, Judge Howard G. Fuller; fifth from left, Gov. Charles N. Herreid; and sixth from left, Judge Dick Haney. (Photo: South Dakota State Historical Society)



Permanent Home in New Capitol

Pierre won fights in 1889, 1890, and 1904 to be the state capital city. The 1905 Legislature authorized the construction of a new permanent capitol in Pierre. The capitol was paid for by monies obtained from the sale of public lands owned by the state. The Legislature believed these lands would sell slowly and decided to build the east wing of the capitol first. The east wing foundation was finished in the fall of 1905.



Construction of Current Courtroom in Capitol...

This photograph of the construction of the permanent capitol shows the east wing in the background. The exposed area is the site of the Supreme Court's current courtroom, law library, and offices. (Photo: South Dakota State Historical Society)



Old and New Capitol in 1910

The photograph below shows the new capitol under construction to the east of the wooden capitol. The Supreme Court maintained offices in the east wing of the wooden capitol, pictured in the center of the photograph, until the new capitol was completed in 1910.



(Photo: South Dakota State Historical Society)



State Capitol 1910 and Now

The stone capitol was completed in 1910. The new home of the Supreme Court was in the east wing of the new capitol and included space for administrative offices, Supreme Court courtroom, a law library, and offices for the five Supreme Court judges. In 1909, the number of judges on the Court was increased from three to five.



South Dakota's stone capitol completed in 1910.
(Photo: South Dakota State Historical Society)



State Capitol in 2023.



SUPREME COURT COURTROOM

The South Dakota Supreme Court courtroom in the stone capitol was decorated in brown, tan, and gold with painted wall designs, matching draperies, and matching carpet. The furniture was polished mahogany.



Supreme Court Courtroom 1910...

The Supreme Court courtroom in the new capitol, before the placement of the mural "The Mercy of the Law." (Photo: South Dakota State Historical Society)



Supreme Court Courtroom Modernization

To obtain a modern look, the Supreme Court courtroom was remodeled in 1952. The ceilings were lowered with acoustical tile, the walls were covered with paneling, and fluorescent lights were installed. At that time, judges did not wear black robes.

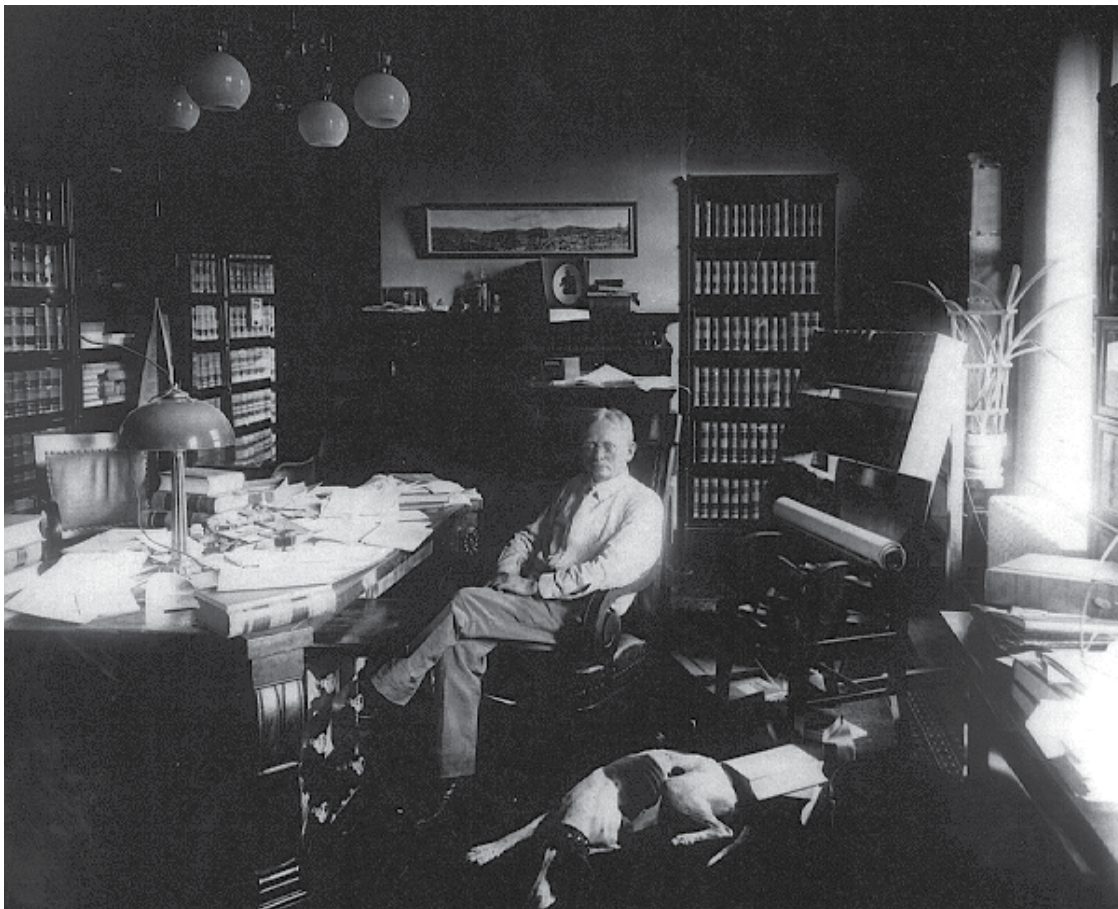


Supreme Court Courtroom Remodel ...

L-R: Judges Vernon R. Sickles, Everett D. Roberts, Herbert B. Rudolph, St. Clair Smith, and Boyd Leedom. The clerk in front is F.M. Pinckney. (Photo: South Dakota State Historical Society)



Judge's Chambers in State Capitol



Judge Samuel C. Polley...

Judge Samuel C. Polley served on the South Dakota Supreme Court from 1913 to 1947. In the 1930s, Judge Polley brought “man’s best friend” to his chambers while carrying out his judicial duties. (Photo: South Dakota State Historical Society)



Judge's Chambers in State Capitol

Judge Ellison G. Smith...

Judge Ellison G. Smith served on the South Dakota Supreme Court from 1909 to 1923. He is pictured in his chambers in the State Capitol with his secretary. (Photo: South Dakota State Historical Society)



Supreme Court Office in 2023...

More than 100 years later, the office of former Judge Ellison G. Smith retains a historic ambiance with the original furniture.



“The Mercy of the Law” Mural

Charles Holloway was commissioned to paint three murals in the newly-completed capitol, including “The Mercy of the Law” in the Supreme Court courtroom. The painting, also referred to as “Gate of Justice,” is a classical expression of art in decorative form and color and emblematic meaning. Holloway described his mural in writing:

In the early middle ages, structures following the general form of gates were erected to receive the throne of the justiciary. In various regions of Europe the church gates, the gates of justice, were adorned with sculptured lions. In the painting, on each side of the gateway is shown the sculptured lions, a symbol of courage.

The ornamental surrounding of the painting is simple suggestion. Shown at the top, the birds as emblems of peace and at the bottom, the cherubs as emblems of the spirit of goodness and love and the serpents as emblems of evil. On each side of the lower part of the center of the painting is shown the despairing and remorseful guilty.

In the center is the spirit of mercy—the symbol of God’s soul, showing pity and compassion for the guilty, but the guardians of nature’s law, the strong arm of God, demand their penalty. The offenders’ lives lie in the mercy of God, yet they must pay the penalty of their crime.



Supreme Court Courtroom Restoration

In preparation for the celebration of the century of South Dakota statehood, the Supreme Court chamber was restored in 1979. The acoustical tile and paneling were removed, and the courtroom was restored to its original appearance. Restoration efforts included repainting and refinishing the walls and furniture to match the original color and design of the chamber as closely as possible.

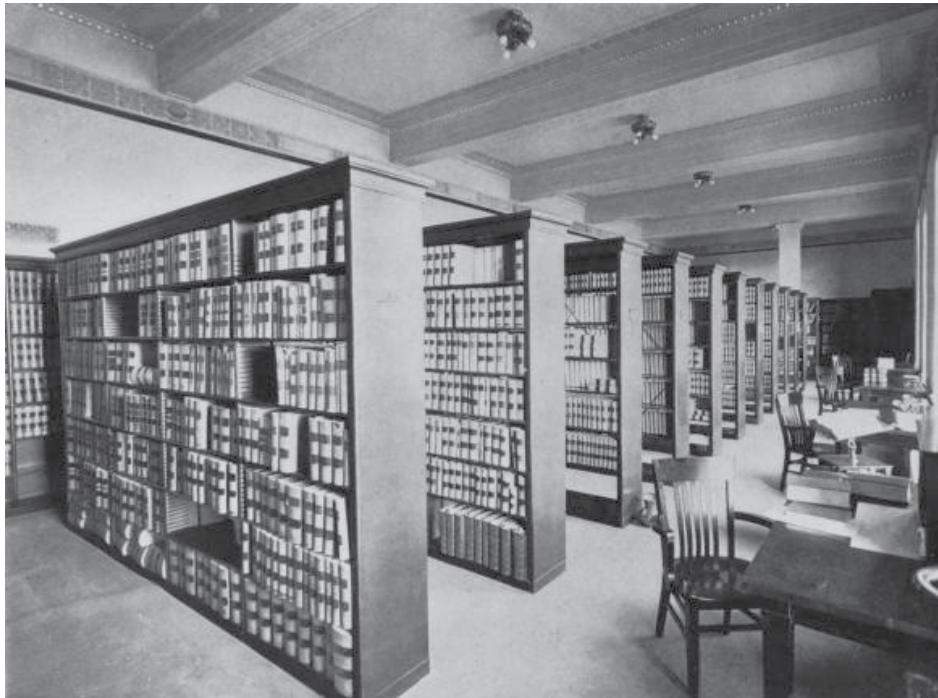


South Dakota Supreme Court courtroom in 2023.



Supreme Court Law Library

Every time an appellate court issues a decision, it is recorded in a law book. Over the decades, thousands of books were added to the South Dakota Supreme Court's law library. A second story, or mezzanine, was added in the 1920s to provide more space to house law books. It was only a question of time before no more space remained. Through technology, the bulk of legal research materials is now available online.



A 1911 copy of Western Architectural Digest showcased a photograph of the Supreme Court law library when the Capitol opened.



Law Library Restoration

After careful research, restoration of the law library began in 2015. A mural was rumored to have been covered by bookcases in the law library, but removal of the mezzanine bookcases determined there was no hidden mural. However, the names of Dakota Territory and early South Dakota Supreme Court judges painted at the top of the library walls were uncovered. For unknown reasons, the names along with stenciled patterns had been painted over.

Today, the law library appears as it did in 1911, including the original hardwood maple floor. Patrons conducting legal research can use the Westlaw online legal research database, as well as treatises, statutes, and the North Western Reporter.



Supreme Court law library in 2023.



SOUTH DAKOTA'S UNIFIED JUDICIAL SYSTEM

The South Dakota Constitution was amended to unify the judicial branch in 1972. South Dakota's courts are organized into a unified judicial system with two levels of courts—the Supreme Court and the circuit courts.

Members of the Supreme Court were called judges until 1972, when their title changed to justice. The Chief Justice of the Supreme Court is elected by and from the five justices to serve a four-year term and may be re-elected to additional terms. The Chief Justice, on behalf of the Supreme Court, has the responsibility of administering the statewide unified court system.

The Supreme Court has original jurisdiction over certain types of proceedings, which means the proceeding is filed directly with the Supreme Court. However, the Court most often serves as an appellate court, hearing appeals from circuit court decisions.

In South Dakota, the Supreme Court supervises judges. The non-partisan Judicial Qualifications Commission hears and investigates complaints against judges believed to be acting improperly and recommends to the Supreme Court whether disciplinary action should be taken. If the Court finds a complaint is justified, it may discipline the judge by censure, suspension, removal from office, or retirement.

The Supreme Court has general superintending power over lawyers in South Dakota. The Supreme Court appoints a five-member Board of Bar Examiners that administers the requirements for admission to practice law in South Dakota. The Supreme Court adopted the South Dakota Rules of Professional Conduct governing the way lawyers deal with their clients, the courts, and the public. These rules establish standards for lawyers' conduct and provide for disciplinary proceedings if a lawyer violates the code.

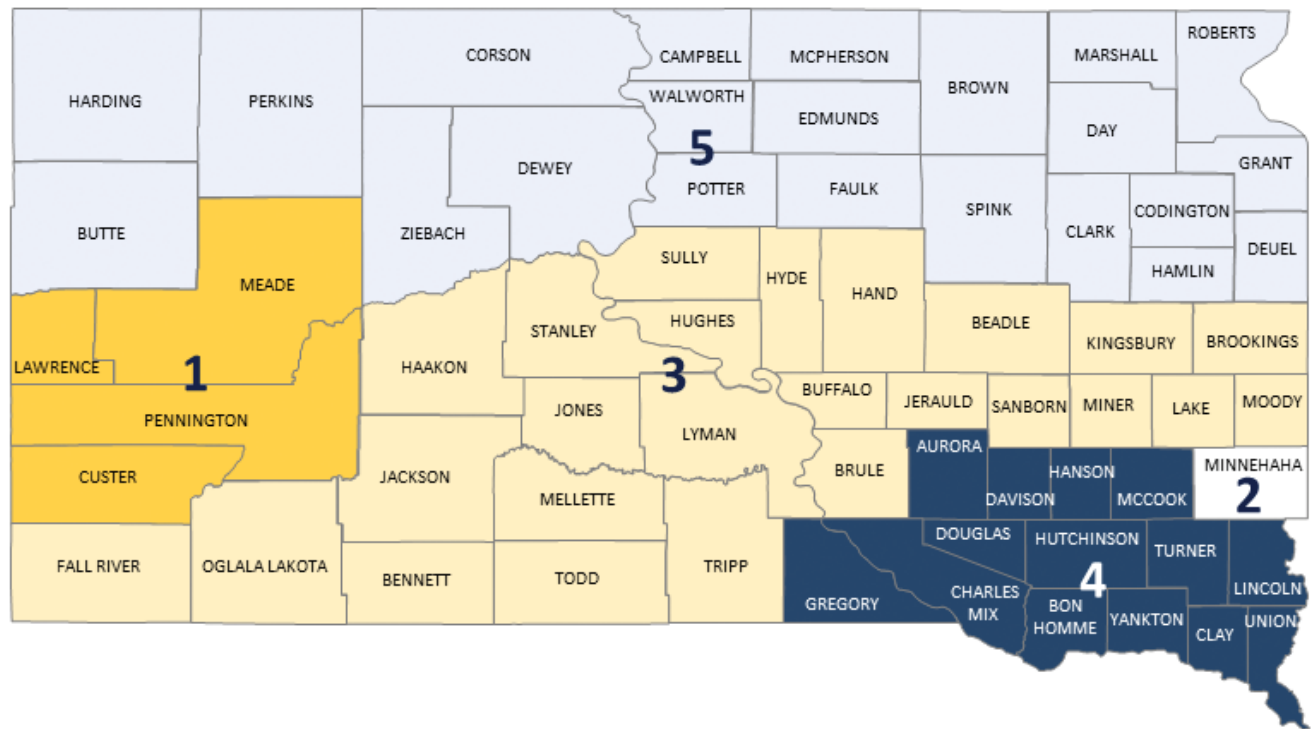


Selection of Justices

The Supreme Court is comprised of five justices appointed by the Governor from a list of two or more persons nominated by the Judicial Qualifications Commission.

Justices must be licensed to practice law in South Dakota, and justices must be voting residents of the district from which they are appointed at the time they take office.

Following appointment to the Supreme Court and after serving on the Court for three years, each justice must stand for retention at the next statewide general election, with retention elections every eight years thereafter. The following map shows the Supreme Court appointment districts.



Women in the Supreme Court



Justice Judith K. Meierhenry was the first female justice appointed to the Supreme Court in South Dakota history. Justice Meierhenry began her judicial career as a circuit judge in 1988. In 1997, she was appointed as presiding judge in the Second Judicial Circuit. Justice Meierhenry was appointed to the Supreme Court in 2002. She retired from the bench in 2011.

Female Majority on Supreme Court...

The first majority of female justices served on the Supreme Court for one case on April 25, 2017, when Justice Steven L. Zinter disqualified himself from a case. Retired Justice Judith K. Meierhenry replaced Justice Zinter to hear oral arguments on the case, joining Justice Janine M. Kern, Justice Glen A. Severson, Chief Justice David Gilbertson, and Justice Lori S. Wilbur.



L-R: Justice Janine M. Kern, Justice Glen A. Severson, Chief Justice David Gilbertson, Justice Lori S. Wilbur, and Justice Judith K. Meierhenry.



Treatment Courts

Treatment courts are the most successful intervention for leading people living with substance use and mental health disorders out of the criminal justice system and into lives of recovery and stability.

In South Dakota, treatment courts include drug court, DUI court, veterans court, and mental health court. Treatment courts in South Dakota began as a pilot program in 2007 with the establishment of the Northern Hills Drug Court based in Meade County.



In treatment courts, treatment providers ensure that each person receives an individualized, evidence-based treatment plan, while probation officers ensure close community supervision. Working as a team, law enforcement, defense, prosecution, and the judge hold participants accountable and provide ongoing support. South Dakota treatment courts save lives, reunite families, make communities safer, and save money.

The goals of treatment courts are to:

- Reduce substance abuse and recidivism among targeted offenders.
- Increase public safety by integrating the criminal justice system with treatment systems and community resources.
- Reduce reliance upon incarceration as a means of dealing with substance abuse issues.
- Increase the number of offenders able to work, parent, and participate in the community.



Gov. Kristi Noem speaks during a Sixth Circuit Problem-Solving Court graduation ceremony on Nov. 22, 2023.



Access to the Justice System

The Supreme Court travels throughout the state twice a year to hear oral arguments at the University of South Dakota Knudson School of Law and another public institution. This gives the citizens of South Dakota the opportunity to see and hear for themselves firsthand how the Supreme Court operates.



The justices met with honor students when the Supreme Court held traveling term of court at Northern State University in Aberdeen on March 19-21, 2024.



Justice Scott P. Myren (center) speaks with students at Jefferson Elementary School in Pierre at 2023 Law Day, along with Kristen Edwards, a staff attorney with the South Dakota Public Utilities Commission, and Rep. Mike Weisgram.



Access to the Justice System

Supreme Court decisions are made available to the public after they are issued on the South Dakota Unified Judicial System's website at <https://ujls.sd.gov>. The public can also listen to Supreme Court oral arguments online.

The Court allows expanded media coverage of oral arguments and the inclusion of cameras in the courtroom to increase public access to the court process. In 2001, both television and still cameras were permitted in the Supreme Court.

In 2011, video and still cameras were permitted on a limited basis in circuit courts. Audio and video coverage are authorized when the attorneys and the judge consent.

Each county courthouse in South Dakota is wired for closed circuit television use for hearings when the judge is in one location and the parties are in another location. Similar systems are in place in some of the larger counties between the courthouse and the county jail.

In 2020 during the COVID-19 pandemic, South Dakota courts remained open to provide a safe forum for citizens to resolve disputes across the state. The Supreme Court held its first oral arguments for a term of court virtually via Zoom. Technology was enhanced to allow for certain types of circuit court hearings to be held remotely, which led to greater efficiencies and improved access for people utilizing the South Dakota justice system.



L-R: Justice Janine M. Kern, Chief Justice Steven R. Jensen, and Justice Mark E. Salter during traveling term of court at Northern State University in Aberdeen on March 20, 2024.



Goose Quills to Computers

To the right is a copy of the earliest known surviving legal opinion of the Dakota Territory Supreme Court. In *US v. John (Jack) McCall*, Presiding Judge Peter Shannon wrote the opinion of the Court in his own hand affirming McCall's death sentence for the killing of Wild Bill Hickock in 1876.

Today, computers allow justices and judges to research and work in their chambers, homes, or elsewhere. This technology also gives them access to the Court's previous opinions to assist with their legal research.

Electronic filing for criminal and civil cases began statewide in 2014. Courts now utilize electronic records to conduct the majority of their business. Beginning in 2019, attorneys not officially involved in a case could review any case file statewide electronically.

eCourts is an online system which allows the public to access summary information about cases, such as names of parties, attorneys of record, documents filed, hearings held, judgments entered, and the outcome of completed cases. The Public Access Record System is an online system which allows people to search for criminal and protection order cases.



The public can also access the majority of court records through computer terminals located in courthouses throughout the state. The public can pay criminal and traffic tickets, find court dates, and access civil court judgments via the UJS website at <https://uj.s.sd.gov>.

Computer terminal in Supreme Court law library.



Members of the South Dakota Supreme Court

*Dighton Corson, District 1	1889 – 1913	*Frederick J. Homeyer, District 5	1962 – 1971
*Alphonso G. Kellam, District 2	1889 – 1896	Fred R. Winans, District 3	1971 – 1976
*John E. Bennett, District 3	1889 – 1893	James M. Doyle, District 1	1971 – 1976
*Howard G. Fuller, District 3	1894 – 1908	Oren P. (Phil) Coler, District 4	1974 – 1977
*Dick Haney, District 2	1896 – 1913	Lawrence J. Zastrow, District 1	1976 – 1979
*Charles S. Whiting, District 3	1908 – 1922	Donald J. Porter, District 3	1977 – 1979
*+James H. McCoy, District 5	1909 – 1921	**Francis G. Dunn, District 2	1973 – 1985
*+Ellison G. Smith, District 4	1909 – 1923	**Roger L. Wollman, District 5	1971 – 1985
*Samuel C. Polley, District 1	1913 – 1947	Robert E. Morgan, District 4	1977 – 1991
*John Howard Gates, District 2	1913 – 1927	Frank E. Henderson, District 1	1979 – 1994
*Frank Anderson, District 5	1921 – 1925	**Jon Fosheim, District 3	1979 – 1986
*Carl G. Sherwood, District 3	1922 – 1931	**George W. Wuest, District 5	1986 – 1994
Charles H. Dillon, District 4	1923 – 1926	Richard W. Sabers, District 2	1986 – 2009
*Dwight Campbell, District 5	1925 – 1937	**Robert A. Miller, District 3	1986 – 2001
*Newton D. Burch, District 4	1926 – 1931	Robert A. Amundson, District 4	1991 – 2002
James Brown, District 2	1927 – 1931	John K. Konenkamp, District 1	1994 – 2014
*Frederick A. Warren, District 2	1931 – 1944	**David Gilbertson, District 5	1995 – 2021
*Everett D. Roberts, District 3	1931 – 1970	Steven L. Zinter, District 3	2002 – 2018
*Herbert B. Rudolph, District 4	1931 – 1957	Judith K. Meierhenry, District 4	2002 – 2011
*St. Clair Smith, District 5	1937 – 1962	Glen A. Severson, District 2	2009 – 2018
*Vernon R. Sickel, District 2	1944 – 1956	Lori S. Wilbur, District 4	2011 – 2017
*Charles R. Hayes, District 1	1947 – 1951	Janine M. Kern, District 1	2014 –
*Boyd Leedom, District 1	1951 – 1955	**Steven R. Jensen, District 4	2017 –
*Alex Rentto, District 1	1955 – 1971	Mark E. Salter, District 2	2018 –
*Charles S. Hanson, District 2	1956 – 1973	Patricia J. DeVaney, District 3	2019 –
Harold Bogue, District 4	1957 – 1959	Scott P. Myren, District 5	2021 –
**Frank Biegelmeier, District 4	1959 – 1974		

+ The number of members of the Supreme Court was increased from three judges to five judges in 1909.

* Served as Presiding Judge of the South Dakota Supreme Court.

** Served as Chief Justice of the South Dakota Supreme Court.



Chief Justices of the South Dakota Supreme Court

Frank Biegelmeier, District 4	1972 – 1974	George W. Wuest, District 5	1986 – 1990
Francis G. Dunn, District 2	1974 – 1978	Robert A. Miller, District 3	1990 – 2001
Roger L. Wollman, District 5	1978 – 1982	David Gilbertson, District 5	2001 – 2021
Jon Fosheim, District 3	1982 – 1986	Steven R. Jensen, District 4	2021 –



Study area of the Supreme Court law library in the State Capitol.





L-R: Justice Patricia J. DeVaney, Justice Mark E. Salter, Chief Justice Steven R. Jensen, Justice Janine M. Kern, and Justice Scott P. Myren conferencing during traveling term of court at Northern State University in Aberdeen on March 20, 2024.





SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM

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Pierre, SD 57501-5070

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<https://uj.s.sd.gov>