

## Chapter 228

### SCR 25-08; SCR 25-09; SCR 25-10; SCR 25-11; SCR 25-12; SCR 25-13; SCR 25-14; SCR 25-15; SCR 25-16

### SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT  
OF THE

STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE REPEAL OF SDCL 16-3-5.1	RULE 25-08 RULE 25-09 RULE 25-10
IN THE MATTER OF THE ADOPTION OF NEW RULES AT SDCL 16-3-5.2; SDCL 16-3-5.3; SDCL 16-3-5.4; SDCL 16-3-5.5; SDCL 16-3-5.6; SDCL 16-3-5.7; SDCL 16-3-5.8; SDCL 16-3-5.9	RULE 25-11 RULE 25-12 RULE 25-13 RULE 25-14 RULE 25-15 RULE 25-16

A hearing was held on February 18, 2025, at Pierre, South Dakota, relating to the repeal of SDCL 16-3-5.1 and the adoption of new rules at SDCL 16-3-5.2; SDCL 16-3-5.3; SDCL 16-3-5.4; SDCL 16-3-5.5; SDCL 16-3-5.6; SDCL 16-3-5.7; SDCL 16-3-5.8 and SDCL 16-3-5.9, and the Court having considered the proposed repeal and the adoption of new rules and written and oral presentation relating thereto, now, therefore, it is

ORDERED that the repeal of SDCL 16-3-5.1 and the adoption of new rules at SDCL 16-3-5.2; SDCL 16-3-5.3; SDCL 16-3-5.4; SDCL 16-3-5.5; SDCL 16-3-5.6; SDCL 16-3-5.7; SDCL 16-3-5.8 and SDCL 16-3-5.9 be approved as follows:

#### Rule 25-08

**Repeal of SDCL 16-3-5.1.** ~~Court rules Filing of notice of rule changes proposed by Supreme Court Publication hearing Combined notices Rules governing internal operation effective on filing.~~

~~Any new rule, amendment, or repeal of existing rules or statutes relating to the administration of the courts, the number and composition of circuits and judges assigned to the circuits, to pleading, practice, or procedure, or to the admission, disbarment, discipline, and reinstatement of attorneys to practice the profession of law may be adopted by the Supreme Court.~~

~~A proposed new rule, amendment, or repeal shall be filed in the office of the clerk of the Supreme Court with deletions shown by strike throughs and additions shown by underscore. The proposed new rule, amendment, or repeal shall include a discussion of the proposed change and:~~

- ~~(1) The identity of the proponent or proponents of the change;~~
- ~~(2) A detailed explanation of the change and the reasons for the change;~~
- ~~(3) An analysis of the state or federal rule or statute that the change is based upon, if any;~~
- ~~(4) A comparison of the change with federal rules or local federal rules on the same subject, if any, and an explanation of any differences, if any, and;~~

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~~(5) An analysis of how the change affects existing rules or statutes.~~

~~The clerk of the Supreme Court shall give thirty days' notice of an intention to adopt, amend, or repeal rules by electronic mail notification to members of the State Bar of South Dakota, by posting notice at the Unified Judicial System's website at <http://www.ujls.sd.gov/> or at the State Bar of South Dakota's website at <http://www.sdbar.org/>, or such other notice as the Court may order. Notice shall include a copy of the proposed rule and the explanation of proposal described above in (1) (5). Any member of the State Bar of South Dakota may request notification of an intention to adopt, amend, or repeal rules through first class mail by contacting the clerk of the Supreme Court. The notice shall fix a time and place when any person interested may appear and be heard with reference to the adoption, amendment, or repeal of rules.~~

~~Notice of adoption of several rules, amendments, or repeals of rules may be given at one time and in one notice.~~

~~All other rules adopted by the Supreme Court concerning its internal operations under its constitutional or statutory rule making power shall be filed with the clerk of the Supreme Court and unless otherwise ordered shall become effective when so filed without further notice.~~

#### **Rule 25-09**

**SDCL 16-3-5.2.** Notice request for Supreme Court rule proposal--Court discretion to decline to consider proposal.

At the direction of the Supreme Court, the clerk of the Supreme Court shall issue a notice requesting any proposal for a new rule, amendment, or repeal of an existing rule pursuant to the Court's rule making authority in S.D. Const., Art. V, § 12 to include but not limited to the administration of the courts, the number and composition of circuits and judges assigned to the circuits, to pleading, practice, or procedure, or to the admission, disbarment, discipline, and reinstatement of attorneys to the practice of law. The clerk shall post the notice at the Unified Judicial System's website at [ujls.sd.gov](http://ujls.sd.gov) or at the State Bar of South Dakota's website at [statebarofsouthdakota.com](http://statebarofsouthdakota.com), or such other posting as the Court may direct.

The notice must fix a time by which such proposal must be received in the office of the clerk to be considered by the Court.

The Court may, in its discretion, decline to consider any rule received pursuant to this section.

#### **Rule 25-10**

**SDCL 16-3-5.3.** Rule proposal requirements.

Any proposal for a new rule, amendment, or repeal of an existing Supreme Court rule must show deletions by strikethroughs and additions shown by underscore. The proposal must include a discussion of the proposed change and:

- (1) The identity of the proponent or proponents of the change;
- (2) A detailed explanation of the change and the reasons for the change;
- (3) An analysis of the state or federal rule or statute that the change is based upon, if any;
- (4) A comparison of the change with federal rules or local federal rules on the same subject, if any, and an explanation of any differences, if any; and
- (5) An analysis of how the change affects existing rules or statutes.

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**Rule 25-11**

**SDCL 16-3-5.4.** Review of rule proposal for form, style, and clarity.

Upon receipt of a proposal submitted pursuant to § 16-3-5.2, the clerk of the Supreme Court shall immediately forward the proposal to the chief of legal research. The chief shall review each proposal for form, style, and clarity in compliance with the rule drafting standards established by the Court and posted at the Unified Judicial System’s website at ujs.sd.gov. Within twenty days of receipt of the proposal in the office of the clerk, the clerk shall return the chief’s form, style, and clarity suggestions to the proponent.

For purposes of this section and §§ 16-3-5.5, 16-3-5.7, and 16-3-5.9, the term, chief of legal research, means an officer of the court designated to manage the work of staff attorneys employed by the Supreme Court.

**Rule 25-12**

**SDCL 16-3-5.5.** Proponent response to suggestions--Proponent fails to timely respond to suggestions--No suggestions.

The proponent may accept or reject the chief of legal research’s suggestions provided pursuant to § 16-3-5.4. Within ten workdays of service of the suggestions, the proponent shall submit a final proposal to the clerk of the Supreme Court meeting the requirements of § 16-3-5.3. If the proponent fails to submit a final proposal within ten workdays of service of the chief’s suggestions, the clerk shall provide notice to the proponent that a final draft was not timely submitted, and that the proposal received pursuant to § 16-3-5.2 is considered final.

If the chief does not recommend any form, style, or clarity suggestions, the clerk shall provide notice to the proponent that no changes were recommended, and that the proposal received pursuant to § 16-3-5.2 is considered final.

**Rule 25-13**

**SDCL 16-3-5.6.** Notice and hearing of final rule proposals.

Following the procedure established in §§ 16-3-5.2 to 16-3-5.5, inclusive, the clerk of the Supreme Court shall give thirty days’ notice of an intention to adopt, amend, or repeal rules by electronic mail notification to members of the State Bar of South Dakota, by posting notice at the Unified Judicial System’s website at ujs.sd.gov or at the State Bar of South Dakota’s website at statebarofsouthdakota.com, or such other posting as the Court may direct.

The notice must include a copy of the final proposal pursuant to § 16-3-5.5. The notice must fix a time and place when any person interested may appear and be heard with reference to the adoption, amendment, or repeal of rules. Notice of adoption of several rules, amendments, or repeals may be given at one time and in one notice.

**Rule 25-14**

**SDCL 16-3-5.7.** Court to receive copies of initial proposal, chief’s suggestions, and final proposals prior to hearing.

Prior to the hearing set by § 16-3-5.6, the clerk of the Supreme Court shall provide the Supreme Court a copy of each proposal submitted pursuant to § 16-3-5.2, the chief of legal research’s suggestions for each proposal pursuant to § 16-3-5.4, and each final proposal as established by § 16-3-5.5.

**Rule 25-15**

**SDCL 16-3-5.8.** Rules governing internal operation effective on filing.

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All rules adopted by the Supreme Court concerning its internal operations under its constitutional or statutory rule-making power must be filed with the clerk of the Supreme Court and become effective when filed without further notice, unless otherwise ordered.

**Rule 25-16**

**SDCL 16-3-5.9.** Court may issue notice of hearing on proposed rules changes without issuing notice requesting rules proposal.

The Supreme Court may, in its discretion, direct the clerk of the Supreme Court to give thirty days' notice of an intention to adopt, amend, or repeal rules by electronic mail notification to members of the State Bar of South Dakota, by posting notice at the Unified Judicial System's website at [ujis.sd.gov](http://ujis.sd.gov) or at the State Bar of South Dakota's website at [statebarofsouthdakota.com](http://statebarofsouthdakota.com), or such other posting as the Court may direct without issuing the notice requesting proposal provided by § 16-3-5.2.

The notice must include a copy of the proposal in the form required by § 16-3-5.3. The notice must fix a time and place when any person interested may appear and be heard with reference to the adoption, amendment, or repeal of rules. Notice of adoption of several rules, amendments, or repeals may be given at one time and in one notice. Prior to issuing notice pursuant to this section, the proposal may be reviewed for form, style, and clarity by the chief of legal research within a time directed by the Court.

IT IS FURTHER ORDERED that the repeal and adoption of new rules set out above shall become effective immediately.

DATED at Pierre, South Dakota, this 5th day of March, 2025.

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