

SOUTH DAKOTA OFFICE OF INDIGENT LEGAL SERVICES

Wednesday, January 21, 2026, 10:00 a.m.

Members Present

- Betsy Hogden
- Judge Bobbi Rank
- Senator Jim Mehlhaff
- Joe Kippley
- Dick Travis
- Heather Lammers-Bogard
- Dean Neil Fulton
- Rep. David Kull

Excused

- Judge Larry Long

Guests

- Chris Miles

Call to Order:

Dean Fulton called the meeting to order at 10:01 a.m. and established a quorum.

Approval of Minutes of Prior Meeting

A motion to approve the minutes was made by Mr. Travis. Seconded by Ms. Hogden. Motion carried.

Case Handling and Status Update

Mr. Miles provided an update on current caseload. There have been 136 cases appointed to the South Dakota Office of Indigent Legal Services. There are currently 86 appeals pending, of which six are homicide appeals. The average caseload per attorney is approximately fifteen. Currently there are five cases on the Supreme Court's April term calendar. Three are set for oral argument on April 21, 2026. Case volume continues to increase as the office becomes more widely known. The first payment voucher for conflict appellate counsel is in process. The Office is communicating with an attorney related to a potential contract for representation in habeas cases at the circuit court level, initially in the First, Second, and Third Judicial Circuits. Many circuit courts request assistance on difficult habeas appointments; a contract attorney could help meet this need.

No additional questions were raised.

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Rules Promulgation

Mr. Miles summarized a memo circulated before the meeting regarding minimum training standards for appointed counsel. The memo isolates the qualifications section for focused feedback. Performance standards previously drafted will be issued separately as guidance, not as formal rules.

New proposed language provides a judicial exception allowing courts to appoint an attorney that does not meet the minimum qualifications if necessary, requiring:

- A written finding of good cause;
- The attorney's consent; and,
- Submission of the finding to the Office of Indigent Legal Services for tracking.

Feedback timeline: Commissioners will provide Mr. Miles suggested edits by Friday, April 3, 2026. The memo will be distributed the first full week of April. Public comment will remain open through the end of April or early May. The provision will later enter the standard rules promulgation process. Clarification was provided that this is an informal comment period, not the formal rulemaking stage.

Assessment of Trial-Level Service Delivery

Dean Fulton provided background on legislative discussions, noting a bill proposing statewide assumption of indigent defense was withdrawn due to budget constraints, not lack of interest. The Commission will proceed with studying the issue independently.

Planned actions:

- Develop a tentative budget and staged implementation plan for trial-level indigent defense with a regional focus.
- Collaborate with UJS leadership, including Greg Sattizahn and Aaron Olson.
- Target completion of the plan by early November for incorporation into legislative budget conversations.

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Mr. Miles added:

- A trial-level division could mirror the Attorney General's model with appellate and trial divisions.
- A statewide team of qualified trial attorneys may be more practical than strictly regional offices, though this requires further study.
- Other states' models are being reviewed for lessons and best practices.
- Initial implementation would likely involve a small team focused on serious cases, later expanding to lower-level matters with legislative support.
- Budget exploration will include attorney fees, travel needs, and other statewide logistics.

Ms. Hogden suggested speaking with the Attorney General to learn how that office decides which cases to take and how they budget for travel and statewide prosecution costs. Mr. Miles agreed to contact the AG's office for criteria and budgeting information.

Mr. Joe Kippley expressed appreciation for the Commission's staged approach. He indicated legislators are interested in property tax relief, and indigent defense costs are a significant burden for counties, especially rural ones. A deliberate, phased plan will position the Commission well for legislative support. Minnehaha County is willing to assist with structural or budget planning.

No further comments were raised.

A draft report will be circulated later in the summer.

Other Business

No additional business was presented.

Public Comment

Dean Fulton opened the floor for public comment. No public comments were offered.

Adjourn

Motion to adjourn made by Mr. Kippley. Seconded by Judge Rank. Motion carried.

The meeting adjourned at 10:28 AM.