

South Dakota Codified Laws

16-18-2.1. Legal assistance by law students--Purpose of provisions. The bench and the bar are primarily responsible for providing competent legal services for all persons including those unable to pay for these services. As one means of providing assistance to lawyers and to encourage law schools to provide field placement instruction in legal work of varying kinds, §§ 16-18-2.2 to 16-18-2.10, inclusive, are adopted. For the purposes of §§ 16-18-2.1 to 16-18-2.10, "extern" means a student in a field placement program for academic credit offered by a school of law in accordance with the American Bar Association Standards for Approval of Law Schools, and "intern" means any other student providing legal assistance under the supervising lawyer.

Source: Supreme Court Order No. 3, 1969; SL 2011, ch 249 (Supreme Court Rule 11-06), eff. July 1, 2011.

16-18-2.2. Requirements for participation by law student. In order to make an appearance and to participate pursuant to §§ 16-18-2.1 to 16-18-2.10, inclusive, the law student must:

- (1) Be duly enrolled in or a graduate of the school of law of the University of South Dakota or a law school approved by the American Bar Association.
- (2) Have completed legal studies amounting to at least four semesters or the equivalent if the school is on some basis other than a semester basis.
- (3) Be certified by the dean of such law school as being of good moral character and competent legal ability, and as being adequately trained to perform as a legal intern or extern. As a part of the certificate the dean shall set forth the termination date of the certificate. No certificate shall remain in effect in excess of eighteen months after it is filed.
- (4) Be introduced to the court or administrative agency in which he or she is appearing as a legal intern or extern by a lawyer authorized to practice law in this state.
- (5) Neither ask nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf he or she renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the legal intern, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require, or prevent any agency or lawyer from reimbursing a legal intern or extern for reasonable, out-of-pocket expenses related to the field placement.
- (6) Certify in writing that he or she has read and is familiar with the rules of professional conduct of the Supreme Court of South Dakota, this title and the provisions of §§ 19-13-2 to 19-13-5, inclusive, and agree to govern his or her conduct accordingly. Such certification shall either be made part of or shall be annexed to the certification of the dean of the law school as required by subdivision (3) of this section.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 1; Supreme Court Rule 80-16; Supreme Court Rule 87-13, SL 1988, ch 432; SL 1989, ch 30, § 49; SL 2011, ch 240 (Supreme Court Rule 10-16), eff. July 1, 2011; SL 2011, ch 250 (Supreme Court Rule 11-07), eff. July 1, 2011.

16-18-2.3. Certification of legal intern or extern by law school dean--Filing--Effective period--Withdrawal by dean or termination by Supreme Court. The certification pursuant to § 16-18-2.2 by the law school dean of a law student to become and perform as a legal intern or extern:

- (1) Shall be filed with the clerk of the Supreme Court and the secretary of the Board of Bar Examiners and, unless it is sooner withdrawn, it shall remain in effect until the expiration of the term fixed by the certificate of the dean, or until the announcement by the Board of Bar Examiners of this state of the results of the first bar examination following the student's graduation, whichever is earlier. Provided, that as to any student who passes such examination, the certification shall continue in effect until the date he or she is admitted to practice law pursuant to § 16-16-17; but such continuation shall not exceed three months. However, any student who fails such examination on the first occasion may apply to the dean of such law school and obtain, upon a showing of good cause in good faith, an extension certificate until the results of the next bar examination are announced. The Board of Bar Examiners announces the results of the bar examination by letter to the student informing him or her that s/he passed or failed the examination.
- (2) May be withdrawn by the dean at any time by mailing a notice to that effect to the secretary of the Board of Bar Examiners and the clerk of the Supreme Court, which shall be filed by the clerk. Such withdrawal may be without notice or hearing and without any showing of cause.
- (3) May be terminated by the Supreme Court at any time without notice or hearing and without any showing of cause. Notice of termination shall be filed with the clerk of the court and the secretary of the Board of Bar Examiners.
- (4) May be terminated by the Board of Bar Examiners at any time without notice of hearing and without any showing of cause. Notice of termination shall be filed with the clerk of the Supreme Court.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 2; Supreme Court Rule 89-14; SL 2011, ch 241 (Supreme Court Rule 10-17), eff. July 1, 2011; SL 2011, ch 251 (Supreme Court Rule 11-08), eff. July 1, 2011.

16-18-2.4. Consent and approval for appearance by legal intern or extern--Authority for appearance in civil and criminal matters. A legal intern or extern may appear and participate in any proceeding in any court or before any administrative agency in this state on behalf of any person in the following matters and under the following circumstances:

(1) In any civil matter. In such matters a supervising lawyer shall certify to the court or the administrative agency, orally or in writing, that the client has consented to the appearance of the legal intern or extern. A supervising lawyer is required to be personally present in court or before the administrative agency at each appearance by a legal intern.

(2) In any criminal or quasi-criminal matter, and whether the defendant does or does not have the right to the assignment of counsel under any constitutional provision, statute, or rule of the Supreme Court of this state or of the United States. In such matters the client shall consent in writing and a supervising lawyer shall approve in writing the appearance by the legal intern or extern and the supervising lawyer shall be personally present throughout the proceedings.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 3; SL 2011, ch 242 (Supreme Court Rule 10-18), eff. July 1, 2011; SL 2011, ch 252 (Supreme Court Rule 11-09), eff. July 1, 2011.

16-18-2.5. Appearance by legal intern or extern for state, county, or first or second class municipality. A legal intern or extern may appear in any civil, criminal, or quasi-criminal matter on behalf of the state, a county, or a first or second class municipality with the written approval of the attorney general, state's attorney, or city attorney, as the case may be. The legal intern or extern shall be under the supervision of the approving attorney, or of a deputy or assistant thereof, who has the responsibility as supervising lawyer. The approval may be for a specific case or matter or may be general for a series or type of cases or matters as appears in order to the approving attorney. The approval may be withdrawn at any time by the approving attorney without notice, hearing, or cause stated; and the withdrawal shall be filed pursuant to § 16-18-2.8. Unless the court orders otherwise, the appearance by the legal intern or extern may be in the absence of the supervising lawyer.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 4; SL 1992, ch 60, § 2; SL 2011, ch 253 (Supreme Court Rule 11-10), eff. July 1, 2011.

16-18-2.6. Preparation of pleadings, briefs, and other documents by legal intern or extern. In addition to the activities authorized under §§ 16-18-2.4 and 16-18-2.5, except as may be limited by the certificate of the dean, a legal intern or extern may engage in other activities, under the general supervision of a supervising lawyer, but outside the personal presence of that lawyer, including but not limited to preparation of pleadings, abstracts, and other documents in any matter; but any item requiring signature under rule or statute must be signed by a lawyer authorized to practice law in this state.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 5; SL 2011, ch 254 (Supreme Court Rule 11-11), eff. July 1, 2011.

16-18-2.7. Oral argument by legal intern or extern before Supreme Court. A legal intern or extern may participate in oral argument before the Supreme Court but only in the presence of a

supervising lawyer who shall certify to the court in his or her introduction of the legal intern or extern to the court that the client has approved the participation by the legal intern or extern.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 6; SL 2011, ch 243 (Supreme Court Rule 10-19), eff. July 1, 2011; SL 2011, ch 255 (Supreme Court Rule 11-12), eff. July 1, 2011.

16-18-2.8. Notation of oral consent and approval of appearance by legal intern or extern-- Filing of written consent.

In each case where the consent and/or approval referred to in §§ 16-18-2.4, 16-18-2.5, and 16-18-2.7 is required, any oral certification of a supervising lawyer shall be noted by the court or presiding officer of the administrative agency on its records of the case and any written consent and/or approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative agency. Provided, however, a general approval by the attorney general, state's attorney, or city attorney pursuant to § 16-18-2.5 shall be filed with the clerk of the applicable court and brought to the attention of the judge thereof.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 7; SL 2011, ch 256 (Supreme Court Rule 11-13), eff. July 1, 2011.

16-18-2.9. Qualifications of supervising lawyer--Professional responsibility. A supervising lawyer under whose supervision a legal intern or extern does any of the things permitted by §§ 16-18-2.4 to 16-18-2.7, inclusive, shall be a lawyer authorized to practice law in this state, and:

- (1) Shall be approved by the dean of the school of law of the University of South Dakota or by the director of the externship program of the school of law; and such approval by the dean or the director may be general, may have time, scope, or case limitations, or may be on an ad hoc case by case basis; all such as the dean or the director shall from time to time determine. The approval may be modified or withdrawn by the dean or the director at any time without notice or hearing and without any showing of cause. Such approval shall be in writing except that at the option of the dean or the director the approval may be oral for all matters relating to the externship program.
- (2) Shall assume personal professional responsibility for the conduct of the legal intern or extern.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 8; SL 2011, ch 257 (Supreme Court Rule 11-14), eff. July 1, 2011.

16-18-2.10. Other rights not affected by provisions for legal assistance by legal interns or externs. Nothing contained in §§ 16-18-2.1 to 16-18-2.9, inclusive, shall affect the right of any person who is not admitted to practice law to do anything that he or she might lawfully do prior to the adoption of §§ 16-18-2.1 to 16-18-2.9, inclusive.

Source: Supreme Court Order No. 3, 1969; Supreme Court Rule 75-4, § 9; SL 2011, ch 258 (Supreme Court Rule 11-15), eff. July 1, 2011.