

APPENDIX H: Legal Aid Policies

Background

The National Center for Access to Justice (NCAJ) at Fordham Law School today released findings in [Justice Index 2021](#), a website that ranks the U.S. states on selected best policies for access to justice. (National Center for Access to Justice, 2021)

On a 0-100 scale, the Justice Index ranks states in four civil justice policy areas: Attorney Access, Self Help, Language Access, and Disability Access. Justice Index 2021 also includes a separate criminal justice ranking dedicated to curbing excessive reliance on fines and fees.

- For civil justice, Maryland is the highest state, at 64.68, while South Dakota is the lowest, at 11.36. Maryland is followed by Massachusetts (2nd/63.71), Connecticut (3rd/62.52), California (4th/61.60), and Hawaii (5th/61.41). (Note: if all jurisdictions are included, D.C. is first at 64.80.)
- South Dakota ranked 52nd, at 11.36, preceded by Alabama (51st/18.98), Nevada (50th/20.44), New Hampshire (49th/21.45), and North Dakota (48th/22.76) (note: the civil justice listings include D.C. and Puerto Rico, making 52 jurisdictions in total).
- When criminal justice fines and fees are added into the mix, Massachusetts is highest, at 59.37, while South Dakota remains lowest, at 13.69 (note: the fines and fees listings include D.C., but not Puerto Rico).
- 10,479 civil legal aid attorneys were counted nationwide. Noting the belief that every state should work towards ensuring at least 10 civil legal aid attorneys per 10,000 low-income people, there are only 1.12 civil legal aid lawyers per 10,000 people with incomes below 200% of the federal poverty level, compared to 40 attorneys per 10,000 people in the general population.

“The Justice Index’s state rankings show greater fairness to be in every state’s reach,” said David Udell, NCAJ founder and executive director. “The Justice Index’s policy findings show where reform has already happened, where it needs to happen next, and how it can be brought about.”

Created in 2014, updated in 2016, and now again in 2021, the Justice Index shows which states have better policies for justice, regardless of income, language spoken, or physical and mental challenges. By spotlighting the states with the selected policies, it supports policy reformers in the states that don’t have them. This is of particular importance in the pandemic era and as society strives to prioritize racial justice.

“Access to justice means having a fair chance to be heard,” said Jamie Gamble, senior counsel & director, Justice Index project for NCAJ. “We look to our justice system to solve problems that cannot be solved elsewhere, including unfair evictions, divorce and custody disputes, and the protection of women and children from abuse and neglect. If it doesn’t work for everyone, it doesn’t work.”

Examples defining the Access to Justice Movement since the debut of the Justice Index include the

creation of statewide Access to Justice commissions, prohibitions on charging litigants for costs of interpreters, enactment of Civil Right to Counsel laws, acceptance of statewide self-representation forms in the courts, adoption of new technologies for remote access to court, assurance of service animal access for people with disabilities, and reliance on certified sign-language interpreters.

“While many of the selected policies are easily adopted and inexpensive to implement, the changes are anything but inconsequential for so many people whose lives depend on them, often without the benefit of legal counsel,” said Udell. “Court dockets are overwhelmingly populated by people who are navigating the system alone, and so much more can be done to ease that burden.”

Justice Index 2021 tracks 163 civil justice best practices, allowing anyone to dig deep into any of the five discrete policy areas in each state.

Source: National Center for Access to Justice, <https://ncaj.org/state-rankings/2020/attorney-access>

Attorney Access Policy Findings

Attorney Access: 26 policies for increasing access to a lawyer. Lawyers are expensive. The Justice Index includes a unique “count” of free civil legal aid organizations and civil legal aid attorneys. It also tracks civil right-to-counsel laws and best policies for promoting private sector pro bono legal aid. <https://ncaj.org/state-rankings/2020/attorney-access>.

Issue	Policy	Policy In Place
Attorney Count	Provide 10 civil legal aid lawyers per 10,000 poor.	9.45
Right to Counsel	Recognize a right to counsel for low-income tenants in eviction cases?	No
Right to Counsel	In the absence of a statewide right to counsel, a political subdivision in the state guarantees the provision of free counsel to low-income tenants facing eviction?	No
Right to Counsel	In the absence of a statewide right to counsel, a political subdivision in the state guarantees the provision of free counsel to low-income tenants facing eviction?	No
Right to Counsel	Recognize a right to counsel for accused parents in abuse/neglect cases?	Yes
Right to Counsel	Recognize a right to counsel in involuntary mental health commitment cases?	Yes
Right to Counsel	Recognize a right to counsel for the proposed ward in guardianship cases?	No
Right to Counsel	Recognize a right to counsel in private termination of parental rights cases for proposed adoption?	No

Issue	Policy	Policy In Place
Right to Counsel	Recognize a right to counsel for both sides in cases where someone seeks a domestic violence restraining order or a protective order?	No
Pro Bono	Encourage lawyers to perform at least 50 hours of pro bono service annually, consistent with aba model rule 6.1: voluntary pro bono publico service?	No
Pro Bono	Adopt rule 3.7b of the model code of judicial conduct (or equivalent) permitting judges to encourage lawyers to provide pro bono services?	No
Pro Bono	Adopt aba model rule 6.5 (or equivalent), relaxing obligations under conflict rules for nonprofit and court-annexed limited legal services programs?	No
Pro Bono	Require 50 or more hours of pro bono service as a condition of becoming a lawyer, per NV's bar admission requirement?	No
Pro Bono	Require attorneys to report pro bono hours?	No
Pro Bono	Authorize out-of-state attorneys to provide pro bono services assisting in disaster relief?	No
Pro Bono	Provide waiver of license requirements (or other simplified registration) for the following categories of attorneys providing pro bono services: <ul style="list-style-type: none"> - Retired or otherwise inactive status attorneys - In-house attorneys - Law professors 	No Yes No No
Pro Bono	Provide CLE credit for pro bono work?	Yes
Pro Bono	Provide lawyer for a day and similar programs? Provide court/atj commission-sponsored pro bono programs in which interested attorneys can participate through a simple sign-up or show-up procedure (e.g., lawyer for a day)?	Yes
Unbundling	Authorize & simplify entry & exit for discrete task (unbundled) legal services without judicial approval?	Yes
Unbundling	Provide court forms for discrete task (unbundled) legal services that allow for automatic withdrawal on completion of task?	No

Issue	Policy	Policy In Place
Design and Planning	Count and publish number of cases filed. Count and publish, by case type, the number of cases filed each year?	Yes
Design and Planning	Count and publish number of self-represented cases annually. Count and publish by case type the number of cases in which, at time of disposition, litigants were unrepresented at any time during the life of the case, from filing to disposition, per NCSC's guide to statistical reporting?	No
Design and Planning	Make court records available for free or at low cost, upon request, to self-represented litigants?	No
Design and Planning	Count right to counsel appointments. Collect data on the number of cases in which counsel is appointed and actually appears in the case on behalf of the client in any categories of civil cases in which there is a statewide right to counsel?	No
Design and Planning	Count number of discretionary appointments of counsel. Collect data on the number of cases in which counsel is appointed and appears in the case at any time on behalf of the client in any categories of civil cases in which the state provides discretion to a decision-maker to decide whether to appoint counsel?	No

Self-Represented Litigants

Self Help - 56 policies for increasing access to justice for people who do not have representation by attorneys. Our legal system was created for lawyers, not people. <https://www.ncaj.org/state-rankings/2020/self-representation>.

Does the State, through a statewide statute, rule, regulation, appropriation, or other written source of law or guidance:

Design & Planning		South Dakota
1	Maintain an access to justice (ATJ) commission with a discretionary budget. Maintain an ABA recognized ATJ commission (or equivalent entity) that has discretion over its own budget to support ATJ initiatives throughout the state?	No
2	Fund a full-time executive director for the ATJ commission?	No

Design & Planning		South Dakota
3	Employ a court staff person to coordinate ATJ programs statewide. Fund a full-time equivalent staff position in the court system (separate from the ATJ commission executive director, and from the court attorney) to coordinate and oversee ATJ programs throughout the state?	No
4	Employ a court attorney to oversee self-help services statewide. Fund a full-time equivalent staff attorney in the court system to oversee self-help services statewide?	No
5	Maintain a strategic ATJ action plan. Post online a strategic action plan, adopted or updated in the past five years, describing the state's plan to reach the conference of chief judges' and chief court administrators' goal of 100% meaningful access to justice?	No
6	Review progress annually on strategic ATJ action plan. Review in past 12 months, the state's progress on the strategic action plan, post the findings online, and update the plan in response?	No
7	Consult the community on ATJ issues. Concluded a formal process in the past 12 months of consulting with key stakeholders on ATJ issues, including but not limited to: the judiciary, the bar, low-income communities, civil legal aid bar, and social services providers?	No
8	Provide "judges" with written guidance on ABA Model Code of Judicial Conduct, Rule 2.2., and Turner v. Rogers. Provide judges with written guidance explaining the instruction in ABA Model Code of Judicial Conduct, Rule 2.2 and Comment 4, to assure impartiality and fairness for self-represented litigants by providing reasonable accommodation to SRLs and in Turner v. Rogers, 564 U.S. 431 (2011), to employ "safeguards" that include explaining to SRLs the key legal issues and key evidentiary materials?	No
9	Train judges on helping SRLs. Funded, in past 12 months, statewide judicial training on how to ensure that SRLs are fairly heard?	No
10	Provide a bench card of steps for judges to help SRLs be fairly heard. Provide judges with a bench card or other document listing specific steps judges may take to assist SRLs in being fairly heard?	No
11	Provide "court staff" with written guidance on ABA Model Code of Judicial Conduct. Provide written guidance, such as a "clerks' card," explaining and referencing ABA Model Code of Judicial Conduct, Rule 2.2 and Comment 4, to assure impartiality and fairness for self-represented litigants by providing reasonable accommodation to SRLs?	No

Design & Planning		South Dakota
12	Train court staff on helping SRLs. Funded within past 12 months statewide education programs for clerks and court staff that include training on how to ensure that SRLs are fairly heard?	No
13	Solicit feedback from SRLs on their experiences with the court. Provide both written and online options for SRLs to rate the ease of use and effectiveness of court services and incorporate this information in the design and delivery of services?	No

Plain Language & Simplification

14	Encourage plain language in the courtroom. Provide written guidance to judges encouraging the use of plain language when speaking with SRLs?	No
15	Guide judges to use plain language in all written communications with public?	No
16	Use plain language court forms. Use plain language court forms for all matters in which SRLs frequently appear (including at a minimum: housing, debt collection, family law, and civil violations)?	No
17	Test forms with users. Test forms with intended users, applying commonly accepted methodologies for proper testing of consumer-use forms?	No
18	Fund improvement of forms in past 12 months. Funded staff and/or activities intended to improve the quality of self-help forms in the past 12 months, including consultation with key stakeholders inside the courts (such as, judges and court staff) and outside the courts (such as members of low-income communities and advocates for SRLs)?	No

Require all courts to accept common forms. Require that all courts in the state accept common statewide court forms for all critical steps (including to: initiate action, respond to action in manner that avoids default, assert available affirmative defenses, and request temporary relief where available), in the following actions:

19	Uncontested divorce without children?	Yes
20	Uncontested divorce with children?	Yes
21	Modification of a child support order?	Yes
22	Order of protection?	Yes
23	Debt collection?	No
24	Eviction?	No

Design & Planning		South Dakota
25	Mortgage and tax foreclosure?	No

Service Delivery

26	Apply financial hardship waiver to SRLs' court costs. Require that financial hardship waivers (i.e., in forma pauperis) apply to SRLs' administrative court costs, including but not limited to fees for: filing pleadings, obtaining copies of important documents, and filing appeals?	No
27	Simplify process for determining financial hardship waiver. Simplify financial hardship waiver prior to filing, by (i) reviewing applications filed in person, and filed online, and (ii) awarding waiver where applicant receives other public benefits based on poverty (e.g., Medicaid benefits; LSC services); or, where applicant's income level is beneath specified income level, documented by current w-2 or tax filing?	No
28	Fund attorney-staffed self-help centers covering all courts statewide. Fund, within the past 12 months, self-help centers staffed by attorneys and sufficient in a capacity that an SRL in any court in the state may be referred to a specific self-help center that is responsible to assist SRLs in that particular court?	No
29	Fund remote access self-help services. Fund remote access self-help services offering live assistance by telephone or internet during the past 12 months?	No
30	Fund training for local non-attorney professionals (e.g., librarians, social workers) on securing access to attorney-supported self-help services?	No
31	Require proof before action to collect debt. Require parties, prior to proceeding with actions to collect alleged debt, to file documentation of legal entitlement to the amount sought. See, e.g., Conf. of Chief Justices Conf. of Chief Court Administrators, Resolution 4, In Support of Rules Regarding Default Judgments in Debt Collection Cases (8/22/2018)?	No
32	Require record of proceedings. Require that all proceedings in all courts be recorded either through court reporters or audio/video technology?	No
33	Allow litigants to bring cell phones into all courtrooms?	No

Design & Planning		South Dakota
34	Identify all statewide navigator programs. Provide on the state judiciary website a complete list, with all pertinent links, of each "statewide" "navigator program" in the courts that uses non-lawyers who are not court staff to provide person-to-person assistance to SRLs (for definition of "navigator program," see Navigators in State Courts, at 11-12)?	No
35	Identify all non-statewide navigator programs. Provide on the state judiciary website a complete list, with all pertinent links, of each "non-statewide" (or, local) "navigator program" in the courts that uses non-lawyers who are not court staff to provide person-to-person assistance to SRLs (for definition of "navigator program," see Navigators in State Courts, at 11-12)?	No

Communicating Court Services

36	Make state judiciary website easily navigable. Maintain a Court website with these features: (1) clear, consistent, plain language names for services, (2) consistent and recognizable logos and (3) navigation or "way-finding" tools widely used on consumer-facing internet portals to allow people to easily locate and access the help they need?	Yes
37	Engage users on mobile devices. Make the Court website easily and fully accessible on mobile devices?	Yes
38	Offer text messaging for appointments and hearings. Offer litigants the option to receive text message reminders of all appointments and hearings?	No
39	Make website easy to find online. Have the Court website marked up by schema.org (or equivalent service) to ensure it appears properly on internet searches?	No
40	Require court staff to explain financial hardship waiver. Require court staff to explain to every litigant that a financial hardship waiver of fees and court costs will be granted if a person meets the eligibility standard?	No
41	Describe financial hardship waiver on website. Describe on the state judiciary website that a financial hardship waiver of fees and court costs will be granted if a person meets the eligibility standard?	No

Maintain a webpage linking to required forms and listing required materials. Maintain on the state judiciary website a single, easily located page that provides SRLs with links to all required forms (in MS

word and PDF format), and identify all required supporting materials for all critical litigation steps (including, to initiate an action, respond to an action in a manner that avoids default judgment, assert available affirmative defenses and to request temporary relief where available) in the following types of matters:

Design & Planning		South Dakota
42	Divorce without children. All court forms necessary to fulfill the minimum filing obligations for a couple without children to obtain an uncontested divorce, and all supporting materials necessary for a court to consider the merits of the case?	Yes
43	Divorce with children. All court forms necessary to fulfill the minimum filing obligations for a couple with children to obtain an uncontested divorce, and all supporting materials necessary for a court to consider the merits of the case?	Yes
44	Child support modification. All court forms necessary to fulfill the minimum filing obligations for a petitioner to obtain a modification of a child support order, and all supporting materials necessary for a court to consider the merits of the case?	No
45	Domestic violence. All court forms necessary to fulfill the minimum filing obligations for a domestic violence victim to obtain an order of protection, and all supporting materials necessary for a court to consider the merits of the case?	Yes
46	Debt collection. All court forms necessary to fulfill the minimum filing obligations for a defendant in a debt collection action to both prevent a default and to assert defenses, and all supporting materials the defendant must provide for a court to consider the merits of the case?	No
47	Eviction. All court forms necessary to fulfill the minimum filing obligations for a defendant in an eviction action brought by a landlord to both prevent a default and to assert defenses, and all supporting materials the defendant must provide for a court to consider the merits of the case?	No
48	Foreclosure. All court forms necessary to fulfill the minimum filing obligations for a defendant in a mortgage or tax foreclosure action to both prevent a default and to assert defenses, and all supporting materials the defendant must provide for a court to consider the merits of the case?	No

Technology – Maintain document assembly program for matters in which SRLs are common. Maintain computer-based document assembly self-help programs to assist litigants in the following types of actions:

49	Uncontested divorce without children. Actions seeking an uncontested divorce for a couple without children?	Yes
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Design & Planning		South Dakota
50	Uncontested divorce with children. Actions seeking an uncontested divorce for a couple with children?	Yes
51	Child support modification. Actions seeking modification or a child support order?	Yes
52	Domestic violence. Actions seeking an order of protection?	Yes
53	Debt collection. Defense of debt collection actions?	No
54	Eviction. Defense of eviction actions?	No
55	Foreclosure. Defense of mortgage and tax foreclosure actions?	No
56	Make electronic filing accessible from any computer for SLRs. Provide access to the Court's electronic filing system to SRLs (and, where authorized, any non-attorneys who may be assisting SRLs) online through any computer?	No

Language Access

Language Access: 35 policies for increasing access to justice for people with limited English proficiency.

Across the country, it is a challenge for people who don't speak English to enforce their rights.

<https://ncj.org/state-rankings/2020/language-access>.

Does the State, through a statewide statute, rule, regulation, appropriation, or other written source of law or guidance:

Design & Planning		South Dakota
1	Maintain a language access plan with specific elements. Maintain a language access plan that requires the courts to do, at a minimum, the following (all elements must be in the plan): (a) perform a periodic needs assessment; (b) monitor and evaluate language assistance services on an ongoing basis; (c) train judges and staff on working with LEP persons; (d) provide interpreter services or the assistance of authorized bilingual staff at key points of contact between the public and the court system; (e) provide in-person interpreter services when not unreasonably costly and remote services when in-person services are not available; (f) translate documents and signage identified through the needs assessment as important to assure access to language access to all persons using court services?	No*

Design & Planning		South Dakota
2	Maintain a language services office. Maintain a language services office with the mission to facilitate the provision of language services in the court system?	No
3	Complete needs assessment. Completed within past three years a language service needs assessment (including data collection from, at a minimum: a) case management systems and b) surveys of litigants, judges, attorneys, interpreters, and court personnel)?	No
4	Monitor and evaluate services. Monitored and evaluated the quality and availability of language services (including but not limited to: i) when and why any requested services were denied or declined, ii) the number of complaints received and iii) whether those complaints resulted in the reversal of a denial of services or disciplinary action) within the past year (using data from, at a minimum, case management systems and surveys of litigants, judges, attorneys, translators, and court personnel)?	No
5	Provide for complaints. Provide a process for litigants to file and obtain a prompt resolution of complaints regarding language services, including the denial, unavailability of, or delay in providing such services?	No
6	Produce annual progress report. Produced within past year an annual report on the status of language services and progress toward meeting the elements of the language access plan?	No
7	Review compliance with federal law. Completed, in past year, an update of court procedural rules and other policies to assure compliance with Title VI of the Civil Rights Act of 1964 and other laws and executive orders concerning language access?	No
8	Maintain interpreter scheduling system. Maintain an interpreter scheduling system to coordinate availability and assignment of interpreters?	No
9	Evaluate interpreters. Evaluate the effectiveness of individual interpreters?	No
10	Train new personnel on language access. Require training on language access services, requirements, and mandates for all new judges and court staff who have contact with the public within six months of commencing work?	No
11	Require periodic training of all personnel on language access. Require that all judges and court staff receive training on language access services, requirements, and mandates at least once in every three-year period?	No

Design & Planning		South Dakota
12	Provide training online. Provide training on language access services and requirements through online (or downloadable) interactive training modules?	No
13	Require continuing education for interpreters. Require all certified interpreters to receive at least a specified number of post-certification continuing education credits annually to maintain certification?	No
14	Provide online toolkit for assistance when needed. Provide an online toolkit to allow judges and court staff to obtain assistance when language services are being provided?	Yes
15	Provide bench and desk cards for fluency evaluation. Provide bench and desk cards with standard questions to assist in evaluating a user's English fluency?	Yes
16	Provide bench and desk cards describing services. Provide to all judges and court staff bench and desk cards describing language services available, how to access those services and the applicable rules and guidelines on providing language services?	Yes
17	Provide language services at key contact points. Provide interpreter services or the assistance of authorized bilingual staff at key points of contact in the court system other than courtrooms, including self-help centers, clerk's counters, court-annexed ADR, and all court-controlled services?	No
Services Delivery		
18	Require provision of language services on request of a party or if a need is apparent to the court. Require judges and court staff to offer, language services at the request of a party or when the judge or court staff are unable to understand the person or if the person does not appear to be fluent in English?	Yes
19	Certify interpreters. Certify interpreters pursuant to a procedure consistent with a) the National Center for State Courts State Court Interpreter Testing Desk Reference Manual, or b) the ABA Standards for Language Access in Courts Standard 8?	No
20	Identify documents and signage to translate to assure access. Identify, based on the needs assessment, which documents and signage must be translated and into which languages, to assure language access?	No

Design & Planning		South Dakota
21	Translate all documents necessary to assure access. Translate all documents identified as necessary (see Question 23) pursuant to a protocol that provides for quality assurance?	No
22	Require translation of all documents if requested in a specific case. Require that all documents in a specific matter be translated into the language(s) spoken by parties to that matter who have requested language assistance?	No
23	Require certified interpreters where available. Require certified interpreters, where available, for litigants, witnesses, and others with key interests (e.g., parent/guardians) who have limited English proficiency?	No
24	Prohibit all charges for interpreters. Prohibit requiring payment (including fees, costs, or other expenses) for court-provided interpreters?	No
Communicating Court Services		
25	Post signs in commonly spoken languages at all entry and major access points. Post signs that language services will be provided without charge, upon request, at all entry and major service access points and in the most common languages spoken?	Yes
26	Provide specific notice on court forms in commonly spoken languages of option for language assistance. Provide to parties and witnesses in all cases through court forms initiating court involvement (i.e., for complaints, summons, subpoenas) specific notice in the most common languages spoken that language services will be provided upon request?	No
27	Provide notice in commonly spoken languages in all publications. Provide notice that language services will be provided without charge upon request in all brochures, publications, notices, and direct written communications and in the most common languages spoken?	No
28	Provide notice in commonly spoken languages at all points of electronic access. Provide notice in commonly spoken languages at all points of electronic access that language services will be provided without charge upon request?	No
29	Offer online frequently asked questions and answers (FAQ). Offer online video/audio answers in the most commonly spoken languages to frequently asked questions?	No

Design & Planning		South Dakota
30	Provide written notice in commonly spoken languages of free language services. Require court staff to provide at all points of contact with users written notice in commonly spoken languages that language services are available without charge?	No
31	Offer “I speak” cards. Offer “I speak . . .” cards in all languages identified through the needs assessment as potential user languages (not limited to the most common languages spoken)?	No
32	Include in all notices an explanation of how to file a complaint. Include in all notices an explanation in the most commonly spoken languages of how to file a complaint regarding the deficiency or poor quality of language services?	No
Technology		
33	Provide all courtrooms with remote interpreter technology?	No
34	Provide in each courthouse, outside the courtrooms, at least one access point to remote interpreter technology?	No
35	Test bilingual staff. Test bilingual staff whom the court employs to offer language assistance, using a validated instrument and adopted standards to ascertain fitness to provide direct language assistance to people with limited English proficiency (not interpret)?	No

Disability Access

Disability Access: 29 policies for increasing access to justice for people with disabilities. Across the country, people with emotional and physical difficulties face barriers when attempting to protect their rights. <https://ncj.org/state-rankings/2020/disability-access>.

Does the State, through a statewide statute, rule, regulation, appropriation, or other written source of law or guidance:

Design & Planning		South Dakota
1	Maintain a strategic plan for disability access. Publish online a strategic action plan, updated within the past 5 years, for expanding access to justice for people with disabilities? The plan must, itself, be accessible to people with disabilities, and must contain a goal for funding disability access services?	No

Design & Planning		South Dakota
2	Maintain accessibility task force. Consistent with ABA recommendations, maintain an accessibility task force of community stakeholders with disabilities who have experience in serving people with disabilities?	No
3	Maintain quality of sign language interpreting. Provide a process to monitor and promote quality of sign language interpreters and take action where needed?	No
4	Maintain sign language interpreter scheduling system. Maintain a sign language interpreter scheduling system to optimize the availability of interpreters?	No
5	Publish an annual report of court compliance and progress with disability laws?	No
6	Self-evaluate program accessibility within past five years. Has carried out a periodic update, within the past five years, of the one-time self-evaluation required under the ADA?	No
7	Self-evaluate physical accessibility within past five years. Has carried out self-evaluation of accessibility of physical infrastructure, including doors, signs, and bathrooms, within the past 5 years?	No
8	Collect and publish data on accommodation requests. Collect and publish data on the number and type of disability accommodation requests annually made, granted, and denied, and reasons for denials?	No
9	Collect and publish data on complaints filed. Collect and publish data on the number, type, and resolution of disability access complaints, including Americans with Disabilities Act & Section 504 complaints?	No
10	Train judges on assisting people with disabilities. Funded in the last 12 months in-person or online training for judges on how to assist people with disabilities?	No
11	Train court staff on assisting people with disabilities. Has carried out in the last 12 months in-person or online training for court staff on how to assist people with disabilities?	No
12	Require periodic training on legal requirements of equal access for people with disabilities. Require judges and court staff to receive training at least once in every 3-year period on state and federal legal requirements regarding equal access to court facilities and services for people with disabilities?	No

Design & Planning		South Dakota
Service Delivery		
13	Provide counsel as accommodation of disability. Identify provision of counsel at public expense to people with disabilities, as a form of reasonable accommodation?	No
14	Provide a qualified sign language interpreter free of charge when necessary for effective communication. Provide sign language services at no cost to the litigant, when requested by a litigant with hearing impairment or otherwise deemed necessary by the court?	No
15	Require sign language interpreters to be certified. Require use by courts of interpreters who are certified, or otherwise approved, pursuant to requirements of the national registry of interpreters for the deaf?	No
16	Require sign language interpreters have courtroom training. Require interpreters be trained on how to interpret in a legal setting?	No
17	Require team interpreting in the courtroom. For courtroom proceedings, require team interpreting, with interpreters taking turns for proceedings over 30 minutes, per recommendation of the National Association of Judiciary Interpreters and Translators?	No
18	Require all court websites to be accessible. Require that all court websites are accessible to people with disabilities? See, for example, ABA Resolution 116C?	No
19	Require access for service animals at all times, without advance notice. Require courts to allow service animals used by people with disabilities at all times and without any need to provide advance notice?	Yes
20	Provide other auxiliary aids and services (beyond interpretation) free of charge. Provide litigants, free of charge, auxiliary aids (including, for example, large print documents, braille printing, closed captioning on television monitors in public areas (e.g., jury rooms), qualified readers, mobility devices, personal care assistance)?	No
21	Provide specialized childcare for children with disabilities. Where courts provide childcare services, ensure that childcare staff trained in working with children with disabilities are available when needed to allow a litigant who is a parent or caretaker of such child to access court services?	No

Design & Planning		South Dakota
Communicating Court Services		
22	Provide notice of right to accommodation of disability on all court correspondence. Require on all court correspondence a clear notice of the right to reasonable accommodation, and that failure to provide accommodation is discrimination?	No
23	Explain on state judiciary website how to request accommodation of disability, with examples?	No
24	Offer sign language interpreting as a language interpreting option. Offer sign language interpreting as an option wherever language interpreting is offered on state judiciary website?	No
25	Provide online option to request “auxiliary aids and services,” including sign language interpreter?	No
26	Provide name and contact information on state judiciary website for accommodation requests. Provide on the state judiciary website the name, phone number, address, and email address of a designated person to contact to request accommodation?	No
27	Provide on state judiciary website option to submit a complaint about denial of access. Explain on court website how to file a complaint about denial of access to court facilities or court services?	No
28	Provide name and contact information on state judiciary website to submit complaints about denial of disability access. Provide on the state judiciary website the name, phone number, address, and email address of a designated person to contact to file a complaint about denial of disability access?	No
29	Maintain disability access webpage on state judiciary website. Maintain a disability access webpage that sets forth comprehensive written policy for serving people with disabilities in the court system, including all rights of people with disabilities?	No

Fines and Fees

Fines and Fees: 17 policies to curb abusive use of fines and fees. Across the country, state and local governments impose exorbitant fines defendants cannot afford. Later, they lock the same people up for “failing” to pay and impose user fees on top of the fines. <https://ncj.org/state-rankings/2020/fines-and-fees>.

For more information on Fines and Fees Justice Index findings, see our separate press release, [here](#).

Notes specific to fines and fees index:

- a) There are 17 primary benchmarks under fines and fees, numbered 1-17. Secondary benchmarks

are attached to primary benchmarks and numbered 1a, 1b, 1c, etc. Some primary benchmarks do not have secondary benchmarks.

- b) Where a state does not meet a primary benchmark, we may ask whether it meets one of several "second-best," secondary benchmarks. Where a primary benchmark is met, we do not record findings for its secondary benchmarks, and instead indicate secondary benchmark results as N/A.
- c) Secondary benchmarks track policies that are less ideal than those tracked in the primary benchmarks, and are accorded less weight than primary benchmarks, but represent good practice relative to the existing practice of many states.

		South Dakota
Abolition of Harmful Practices		
1	Abolition of all fees. The state has abolished all fees, costs, surcharges, and assessments in all matters involving a violation of law. This includes but is not limited to chargers for i) appointed counsel; ii) probation or parole supervision; iii) electronic monitoring; iv) diversion programs; v) services such as treatment or drug testing; and vi) costs of incarceration including room, board, and health care.	No
1a	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 has abolished all the fees, costs, surcharges, and assessments that it has the power to abolish.	No
1b	No charges for counsel. Statewide, there are no fees linked to the services of a public defender or other appointed counsel.	No
1c	No charges for incarceration. Statewide, there are no charges to incarcerated people for the costs of their incarceration including room, board, and health care.	No
1d	Significant steps. The state has taken one or more significant steps, other than those described above, to curtail court-ordered fees, costs, surcharges, or assessments within the last four years. This could for example include: i) abolition of particular fees, costs, surcharges, or assessments; or ii) a reduction of, or cap on, amounts charged.	No
2	No juvenile court fines and fees. The state has abolished all juvenile court fines, fees, costs, surcharges, and assessments, including both those imposed on youth and those imposed on their parents, guardians, or other responsible adults.	No
2a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No

		South Dakota
2b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 has abolished all the juvenile court fines, fees, costs, surcharges, and assessments that it has the power to abolish.	No
2c	Abolished juvenile court fees, but not fines. The state has abolished all juvenile court fees, costs, surcharges, and assessments imposed on youth, parents, guardians, or other responsible adults-- but has not abolished all fines in these cases.	No
2d	Abolished juvenile court fines, but not fees. The state has abolished all juvenile court fines-- but has not abolished all fees, costs, surcharges, and assessments imposed on youth, parents, guardians, or other responsible adults in these cases.	No
2e	Significant steps. The state has taken steps within the last four years to eliminate some, but not all, fines and/or fees for juveniles.	No
3	Conflicts of interest around fines and fees revenue. The state has no fines, fees, costs, surcharges, or assessments whose revenues are explicitly directed to support law enforcement or the courts.	Yes
3a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	N/A
3b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	N/A
3c	Cap on fines and fees revenue. The state caps the proportion of municipal and county budgets that may be drawn from fines and fees revenue.	N/A
4	Private collection of fines and fees debt. The state does not allow courts to use private collections firms to collect unpaid fines and fees	No
4a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
4b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	No

		South Dakota
4c	Payment not tied to amount collected. The state permits private collections of unpaid fees but requires that collectors' compensation be unrelated to the amount of money they collect.	No
4d	No charge for debt collection. The state prohibits courts from imposing surcharges on unpaid fines and fees sent to private collection.	No
4e	Contract terms. The state includes provisions in all contracts with private collectors hired to pursue court debt, that incorporate protections in the Fair Debt Collections Practices Act, or substantively equivalent terms.	No
4f	Fair debt collection laws. The state has fair debt collection practices laws that apply to the collection of fines and fees by private debt collectors.	No

Ability to Pay

5	Ability to pay determinations at sentencing. The state requires courts to conduct an ability to pay determination whenever they impose fines, fees, costs, surcharges, or assessments.	No
5a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
5b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	Yes
5c	Meets with regard to fines only. The state meets the primary benchmark with regard to fines, but not fees.	No
5d	Right to ability to pay determination. The state has a statute codifying a person's right to request an ability to pay determination at sentencing or at any other time, but the inquiry is not conducted automatically.	No
6	Proof of willful failure to pay. The state requires the government to prove that a person's failure to pay any fine, fee, cost surcharge, or assessment was willful, before incarcerating or imposing any other sanction on an individual for failure to pay.	No
6a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
6b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	No

		South Dakota
7	Set ability to pay standards. The state has codified substantive standards that all state and local courts are required to use, giving clear guidance to judges on how the ability to pay should appropriately be determined.	No
7a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
7b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	No
8	Standards that trigger presumption of indigence. The state has codified standards that trigger a presumption that a person is indigent and unable to pay fines, fees, costs, surcharges, or assessments, in cases involving a violation of law. This presumption must be triggered by at least one of the following: receipt of means-tested public assistance, income below an enumerated threshold, and/or eligibility for court-appointed counsel.	No
8a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
8b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	No
9	Discretion to waive or modify fines and fees. The state ensures that all judges have the discretion to waive or modify all fines, fees, costs, surcharges, or assessments based on ability to pay, at imposition, or at any point afterward.	No
9a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
9b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	No
9c	Meets only partially. The state meets the primary benchmark with respect only to all fines, or with respect to some or all fees, costs, surcharges, and assessments.	Yes

		South Dakota
10	Payment plans. The state mandates that anyone can choose to pay fines and fees on a payment plan if they cannot afford to pay immediately, without incurring any additional fees or interest charges.	No
10a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
10b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	Yes
11	Individualized fines. The state has taken one or more specific steps to mandate, encourage or facilitate courts' use of individualized fines ("day fines") that are scaled according to both the severity of the offense and the individual's economic status.	No
11a	At least one court piloting. At least one court, at any level within the state, is currently implementing or piloting a system of proportional fines as described in the primary benchmark.	No
12	Right to counsel when incarceration is possible. The state has codified a right to counsel in all proceedings where a person faces possible incarceration for failure to pay fines, fees, surcharges, and assessments.	No
12a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
12b	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 meets the primary benchmark's substantive criteria, with respect to all of the fines, fees, costs, surcharges, and assessments it levies on its own authority.	No
Collateral Consequences		
13	Driver's license suspension for unpaid fines and fees. State law does not allow for the suspension of driver's licenses for failure to pay fines, fees, costs, surcharges, or assessments; nor for failure to appear in court.	No
13a	Meets but for some driving-related offenses. The state does not suspend licenses for failure to pay, except that state law provides that licenses may be suspended for nonpayment of fines and fees imposed for some driving-related offenses.	Yes
13b	Meets only with regard to failure to pay. The state meets this benchmark with regard to failure to pay, but not with regard to failure to appear.	No

		South Dakota
13c	Meets only with regard to failure to appear. The state meets this benchmark with regard to failure to appear, but not with regard to failure to pay.	Yes
14	Voting rights. The state does not condition restoration of voting rights on payment of fines, fees, costs, assessments, or surcharges, including any payments that are a condition of probation or parole.	No
15	Does not condition expungement on payment of fines and fees. The state does not condition the expungement or sealing of records, on payment of fines or fees.	Yes
15a	Meets except for some counties and municipalities. The state meets the primary benchmark, except with regard to some counties and/or municipalities.	No
DATA TRANSPARENCY		
16	Collection and publication of data. The state collects and publishes the following data at the state, county, and municipal levels:	
	Total amounts: The total amount of fines, fees, surcharges, and assessments imposed, and amounts of revenue in each category collected	No
	Incarceration: The total number of people incarcerated for failure to pay fines, fees, surcharges or assessments, including probation revocations for failure to pay.	No
	Race: Data, broken down by sentenced individuals' race and ethnicity, on the total amount of fines and fees imposed.	No
	Age: Data, broken down by sentenced individuals' age, on the total amount of fines and fees imposed.	No
	Gender: Data, broken down by sentenced individuals' gender, on the total amount of fines and fees imposed.	No
	Income: Data, broken down by sentenced individuals' income level at the time of sentencing, on the total amount of fines and fees imposed.	No
COVID RESPONSE		
17	Covid response. The state has enacted at least one significant, temporary measure to mitigate the impact of fines and fees in light of the COVID-19 pandemic. This could include the waiver of outstanding court debt; the reduction or elimination of certain fines and fees; or the suspension of efforts to secure payment or punish non-payment of fines and fees.	No
17a	At least one major county or municipality meets. At least one county or municipality with a population of at least 50,000 has enacted a measure that meets the primary benchmark's substantive criteria.	No