IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

* * * *

ORDER AMENDING THE RULES AND REGULATIONS FOR ADMISSION OF ATTORNEYS TO PRACTICE LAW IN SOUTH DAKOTA DURING THE COVID-19 PANDEMIC

WHEREAS on March 13, 2020, the South Dakota Supreme Court entered an Order Declaring Judicial Emergency to address health risks posed by the COVID-19 Pandemic;

WHEREAS mitigating the effects of COVID-19 is a high priority in the South Dakota Unified Judicial System;

WHEREAS, the Supreme Court by rule governs admission to the bar, S.D. Const. art. V, § 12; SDCL 16-3-9;

WHEREAS, the Supreme Court is committed to meeting the needs of South Dakota citizens for legal services, ensuring public protection through the licensure process, and minimizing the impact on law school graduates resulting from potential delays in licensure due to the COVID-19 Pandemic and "social distancing;"

NOW, THEREFORE, pursuant to the Court's authority to govern admission to the bar, administer justice, and ensure the safety of applicants to the bar, court personnel and the public, certain rules and regulations governing admission to the bar must be suspended or amended immediately until further order of the Court,

IT IS HEREBY ORDERED THAT:

1. Because the NCBE may not provide MBE, MPT, and MEE bar exam materials to administer the bar examination on July 28-29, 2020,

Regulations 3, 4, and 7 of the South Dakota Board of Bar Examiners are amended to provide:

A. In the event NCBE does not provide materials to allow the MBE, MPT, and MEE exams to be administered in July 2020, in lieu of using the MBE, MPT, and MEE, the Board of Bar Examiners is authorized to develop, administer, and grade a 10-question essay examination covering Indian Law and any of the topics tested by the MBE, MPT, and MEE. The essay exam will be administered on Tuesday, July 28, 2020. The passing score will be a general average of 75%.

B. Only applicants who have filed an application postmarked on or before May 1, 2020 are eligible to take this essay examination.

C. An applicant may opt to take the MPT/MEE/ILQ and MBE in February 2021 rather than the July 2020 essay. Pursuant to SDCL 16-16-13, application fees will transfer only to the February 2021 examination.

D. The Board of Bar Examiners has broad discretion in administering the July 2020 examination and must give applicants notice of the time, venues, and any special circumstances necessitated by the COVID-19 pandemic. Administration of the July examination must comply with federal, state, and local public health orders so that examinees, staff, and volunteers are not placed at unreasonable risk. The Board will monitor the situation and is authorized to

cancel the July exam at any time before the examination if the situation warrants.

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E. Should the July bar examination be cancelled, the Board is authorized to administer the MPT/MEE/ILQ and MBE on the next available dates that the NCBE makes such tests available under the conditions of 1(D) of this Order.

2. The provisions of SDCL 16-18-2.1 through 2.10 allow law students and graduates of the University of South Dakota School of Law and ABA approved law schools to work under the supervision of a licensed attorney until they are able to take the bar exam and obtain their results. The certification of the law school dean required by SDCL 16-18-2.1 cannot remain in effect in excess of eighteen months. For graduates who have applied for the July 2020 South Dakota bar examination, SDCL 16-18.2.3 is amended to provide that the term of the certification remains in effect until the expiration of the term fixed by the certificate of the dean or until three months after the announcement of results of the July 2020, September 2020, or February 2021 bar exam, depending on if the examination is administered, and whichever term is earlier.

THIS ORDER is effective immediately and until further order of the Court.

DATED at Pierre, South Dakota, this 6th day of May, 2020.

ATTEST:

Clerk of the Supreme Court
(SEAL)

BY THE COURT:

David Gilbertson, Chief Justice

PARTICIPATING: Chief Justice David Gilbertson and Justices Janine M. Kern, Steven R. Jensen, Mark E. Salter and Patricia J. DeVaney.