



# Judicial Council of California

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February 20, 2026.

## Subject Text

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File #: 20-140, Version: 1

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### Title

## Rules and Forms | Appellate Procedure: Appointment of Counsel in Misdemeanor Appeals (Action Required)

### Summary

To implement the California Supreme Court's decision in *Gardner v. Appellate Division of Superior Court* (2019) 6 Cal.5th 998, the Appellate Advisory Committee recommends amending the rule regarding appointment of counsel in misdemeanor appeals to expand the circumstances under which the appellate division is authorized to appoint counsel for an indigent defendant. The proposal would also revise two forms to be consistent with the rule amendments.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective September 1, 2020:

1. Amend California Rules of Court, rule 8.851 to require the appellate division to appoint counsel for an indigent defendant who has been charged with a misdemeanor and the appeal qualifies as a critical stage of the criminal process; allow the appellate division to appoint counsel for any other indigent defendant charged with a misdemeanor; add an advisory committee comment describing *Gardner v. Appellate Division of Superior Court* (2019) 6 Cal.5th 998; and make other conforming changes and corrections;
2. Revise form CR-131-INFO to reflect the amendments to rule 8.851 and to clarify language explaining that a misdemeanor defendant does not have a right of self-representation; and
3. Revise form CR-133 to reflect the amendments to rule 8.851.