



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure:	PPD 4.6.205 CONDITIONAL DISCHARGE FROM SUPERVISION
Effective Date:	10/13/2017 Page 1 of 6
Revision Date(s):	07/29/2019; 02/10/2020; 08/16/2021
Reference(s):	PPD 6.3.401; 46-23-1011, MCA; 46-23-1020, MCA; 46-23-1021, MCA; 46-24-212, MCA; 20.25.704 A.R.M.
Signature / Title:	/s/ Kim Lahiff, Acting Probation and Parole Division Administrator

I. PURPOSE:

Probation & Parole Officers will follow established procedures when recommending a conditional discharge from supervision for probationers and parolees.

II. DEFINITIONS:

Conditional Discharge from Supervision (CDFS) – As defined in §46-23-1020, MCA, 1) a discharge from supervision by the Department of Corrections for the time remaining on the sentence imposed if the probationer or parolee complies with all the conditions imposed by the District Court or the Board of Pardons & Parole; and 2) a release from the obligation to pay supervision fees imposed as part of a sentence or as terms of parole or probation.

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices and interstate transfers.

Registered Victim – A person registered with an automated notification system (e.g., VINE) used by the Department and/or who is identified in OMIS as registered with the Department to receive location and custody status updates about adult offenders under Department supervision.

VINE-Victim Information and Notification Everyday – An automated telephone, email, and text notification system which provides location and custody status updates about adult offenders under Department supervision.

Victim - The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be recognized as victims on a case-by-case basis.

III. PROCEDURES:

A. GENERAL PROVISIONS:

1. An offender granted a conditional discharge from supervision (CDFS) will no longer be under Probation & Parole (P&P) supervision but will remain under the jurisdiction of the District Court or the Board of Pardons and Parole (BOPP) until the date of his/her sentence expiration or termination.
2. A District Court may conditionally discharge a probationer, or the BOPP may conditionally discharge a parolee, from standard supervision if the Court or BOPP determines a conditional discharge is in the best interests of the offender and society and will not present unreasonable risk of danger to the victim(s) of the offense.

- a. The Court must find all restitution and court-ordered financial obligations have been paid in full.
 - b. The BOPP must consider the following:
 - 1) per §46-23-218, MCA, the parolee's compliance with his/her supervision, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability; and
 - 2) parole achievement credits of §46-23-1027, MCA.
 - c. If parolee is granted a CDFS, the BOPP may provide conditions while the parolee is on CDFS.
3. An offender on conditional release is not eligible for a CDFS.
4. Because Montana CDFS statutes are not applicable to out-of-state interstate offenders being supervised in Montana, these interstate offenders are not eligible for CDFS.
5. For the purpose of this CDFS procedure, an offender is in compliance with his/her supervision when he/she:
- a. is demonstrating stability in residence. Housing stability means offender has a permanent residence and is self-sufficient regarding the costs associated with housing with or without public assistance, is not homeless or at risk of homelessness;
 - b. is demonstrating stability in employment or the ability to be financially self-sufficient. Stability in employment means offender is currently employed and has been employed for most of his/her supervision, is in a position or positions which provide adequate income for self-support with or without public assistance, or if not employed, is financially able to support themselves through personal resources or public assistance;
 - c. has successfully completed all court- and/or BOPP-ordered treatment and programming;
 - d. has not had any positive drug or alcohol tests or any drug or alcohol use admissions in last six (6) months;
 - e. have been free of non-compliance violations during the supervision time required based on risk level;
 - f. has been accountable in working towards and meeting goals established in his/her case plan or through supervision with P&P Officer;
 - g. has paid all restitution and court-ordered financial obligations in full. For CDFS purposes, offenders are determined to be in compliance if they have made payments since their most recent status change, not including jail sanctions. Payments made during any prior status or discharged offenses will not be considered; and
 - h. the Department finds there are no objective reasons for victim's strong opposition.
6. A sexual or violent offender on lifetime supervision is not eligible for CDFS.
7. After determining an offender is eligible for a CDFS pursuant to part B or C below, the supervising P&P Officer will complete either *PPD 4.6.205(A) Parolee Eligible for Conditional Discharge from Supervision* OR *PPD 4.6.205(B) Probationer Eligible for Conditional Discharge from Supervision*.
- a. If offender is a sexual or violent offender, the appropriate eligibility form and attachments are submitted for review and approval to the Deputy Chief. For out-of-state Montana cases, the eligibility form and attachments are submitted to the Compact Administrator (CA) for review and approval.
 - b. Electronic signatures are NOT accepted on the eligibility form; it MUST be signed by the P&P Officer.

- c. The eligibility form will contain the following:
 - 1) information on the instant offense and criminal history;
 - 2) offender's employment history while under supervision;
 - 3) information regarding the offender's general attitude;
 - 4) supervision history including length of supervision period and the offender's involvement in treatment;
 - 5) verification of compliance with Department, court-ordered, and/or BOPP conditions;
 - 6) payment of restitution, fees, and fines;
 - 7) offender's risk assessment;
 - 8) victim notification information, when applicable; and
 - 9) whether the supervising P&P Officer "opposes" or "does not oppose" a *probationer's* CDFS.

8. Revocation of CDFS:

- a. A probationer's CDFS granted by the District Court may be revoked by the court if, within the time remaining on the sentence that was conditionally discharged, the offender:
 - 1) is charged with a felony offense;
 - 2) is charged with a misdemeanor offense for which the offender could be sentenced to incarceration for a period of more than six (6) months; or
 - 3) violates any court-ordered condition.
- b. A parolee's CDFS granted by the BOPP may be revoked and the parolee returned to active supervision or the conditions of the CDFS may be amended if the BOPP determines it to be in the best interest of society.

9. Notifications made to P&P regarding any alleged violation by a CDFS offender being charged with one of the above-listed offenses will be forwarded as follows:

- a. to the county attorney of record for probationer; or
- b. to the BOPP for parolee.

B. PROCEDURES FOR PAROLEE CDFS:

- 1. To determine if a parolee is eligible for a CDFS, his/her file will be initially reviewed by the supervising P&P Officer after the parolee has served one (1) year of active supervision, and then annually thereafter until the parolee is eligible.
- 2. The parolee may be eligible for a CDFS upon the following considerations:
 - a. the judgment does not prohibit early release;
 - b. the parolee's compliance with his/her supervision, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability as defined in section A.5. above and the parolee's achievement credits; and
 - c. the supervising P&P Officer will check OMIS and VINE for victims and also contact the BOPP and/or the county attorney's office serving in the county of the presiding district court to help in determining victim contact information. Officer will then notify any victims regarding the offender's eligibility for a CDFS and the filing with the BOPP.
 - 1) Officer will explain the process of CDFS and what it means in regard to the offender's supervision;
 - 2) Victim(s) is given an opportunity to ask questions and provide written or oral input. Officer will inform victim that the offender will receive the input as part of the process;

- 3) Name of the P&P Officer to whom the victim should respond is provided, including Officer's address and phone number. The name and contact information of the county attorney serving in the county of the presiding district court is also provided to the victim(s);
 - 4) Notification to victim(s) is noted in offender's OMIS record;
 - 5) Officer will review all victim input and will staff with supervisor if victim opposes the CDFS; and
 - 6) Officer will provide victim input to the BOPP and the county attorney.
3. If parolee is eligible for CDFS, P&P Officer completes *PPD 4.6.205(A) Parolee Eligible for Conditional Discharge from Supervision*. The eligibility form and any attachments are uploaded into offender's OMIS record and forwarded to the BOPP.
4. Approval of CDFS:
- a. The BOPP will prepare a certificate for distribution upon CDFS approval and provide it to the supervising P&P Officer.
 - b. Upon receipt of the certificate, P&P Officer will complete *PPD 4.6.205(D) Conditional Discharge from Supervision Information*. Both the certificate and *Information* are uploaded into offender's OMIS record.
 - c. Supervising P&P Officer will meet with the offender and complete the following:
 - 1) review circumstances that may result in revocation of CDFS (see section A.8. above);
 - 2) provide and review the BOPP's certificate of CDFS and the *Conditional Discharge from Supervision Information*:
 - a) review conditions given on BOPP certificate, including the written report due to the BOPP in January of each year that gives the parolee's address and any contacts he/she had with law enforcement;
 - b) a parolee discharging to suspended time will be given a date to report to a P&P office upon his/her parole expiration. *PPD 6.3.201 Administrative and Sign-Up Procedure for Adult Community Supervision* will be followed when the offender reports; and
 - c) remind offender that his/her sentence has not yet expired and therefore, his/her right to possess a firearm is not possible; offender should contact ATF prior to possessing firearms once sentence is expired.
 - 3) have a sexual/violent offender review and sign part II of *PPD 1.5.1000 (A) Duty to Register Letter* and remind offender of his/her duty to continue to register. Copy is uploaded into OMIS record and original is given to offender.
 - d. P&P Officer will complete OMIS termination moves. Date entered should be the date on the BOPP's certificate. A change in the offender's OMIS Location and Status will initiate VINE notification.
 - 1) Correctional Status showing release to BOPP jurisdiction;
 - 2) Location (end date); and
 - 3) Officer (end date).
 - e. The parolee's field file is returned to the BOPP. Upon expiration of offender's sentence, BOPP will send file to county of commitment. File is then placed with inactive files and retained pursuant to *PPD 1.5.501 Case Records Organization, Management, and Retention*.
5. **Offenders for whom an eligibility form was denied by the BOPP shall be supervised using the guidelines provided in *PPD 6.3.401 Case Management for Adult Offenders*.**

C. PROCEDURES FOR PROBATIONER CDFS:

1. Supervising P&P Officers will review every probationer's record to determine the following:
 - a. judgment does not prohibit early release;
 - b. compliance with supervision as outlined in section A.5. above;
 - c. statutory provisions as follows:
 - 1) under the women's risk/needs assessment using the probation and parole tool (WRNA PPA):
 - a) a low-risk probationer has served nine (9) months;
 - b) a moderate-risk probation has served 12 months;
 - c) a medium-risk probationer has served 18 months; and
 - d) a high-risk probationer has served 24 months.
 - OR
 - 2) under the Montana offender reentry and risk assessment using the community supervision tool (MORRA CST) and the community supervision screening tool (MORRA CSST):
 - a) a low-risk probationer has served nine (9) months;
 - b) a moderate-risk probation has served 12 months;
 - c) a high-risk probationer has served 18 months; and
 - d) a very high-risk probationer has served 24 months.
 - 3) When a probationer is serving consecutive sentences, the number of months to be served based on risk level is applicable to each consecutive sentence and added together (i.e., low-risk is 9-months and three consecutive sentences = 27 months). Probationer may be recommended for CDFS once the aggregate period is served, he/she is in compliance with his/her supervision, and victim input has been received when applicable. One *PPD 4.6.205 (B) Probationer Eligible for Conditional Discharge from Supervision* is completed.
 - d. victims in OMIS and VINE and also contact the county attorney's office serving in the county of the presiding district court to help in determining victim contact information. Officer will then notify any victims regarding the offender's eligibility for a CDFS and the process of a court filing.
 - 1) Officer will explain the process of CDFS and what it means in regard to the offender's supervision;
 - 2) Victim(s) is given an opportunity to ask questions and provide written or oral input. Officer will inform victim that the offender will receive the input as part of the court process;
 - 3) Name of the P&P Officer to whom the victim should respond is provided, including Officer's address and phone number. The name and contact information of the county attorney serving in the county of the presiding district court is also provided to the victim(s);
 - 4) Notification to victim(s) is noted in offender's OMIS record;
 - 5) Officer will review all victim input and will staff with supervisor if victim opposes the CDFS; and
 - 6) Officer will provide victim input to the court and the county attorney.
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2. A probationer with a deferred sentence may qualify for a CDFS prior to being eligible for an early termination of the deferred sentence. If a probationer is eligible for CDFS prior to the time needed to be eligible for an early termination, and the probationer opts to motion for a CDFS, then the Officer will complete the procedures beginning in part 3. below.

3. If probationer is eligible for CDFS, supervising P&P Officer will:
 - a. complete *PPD 4.6.205(B) Probationer Eligible for Conditional Discharge from Supervision* and *PPD 4.6.205(D) Conditional Discharge from Supervision Information* and upload both into offender's OMIS record;
 - b. meet with the offender and:
 - 1) review circumstances that may result in revocation of CDFS (see section A.8. above);
 - 2) inform offender of procedures for possible early termination of the remaining portion of his/her suspended or deferred sentence, including the dismissal of underlying charges of the deferred sentence.
 - 3) remind offender that during the CDFS, his/her sentence has not yet expired and therefore, his/her right to possess a firearm is not possible; offender should contact ATF prior to possessing firearms once sentence is expired or terminated;
 - 4) have a sexual/violent offender review and sign part II of *PPD 1.5.1000(A) Duty to Register Letter* and remind offender of his/her duty to continue to register. Copy is uploaded into OMIS record and original given to offender;
 - 5) provide *PPD 4.6.205(B)* and *PPD 4.6.205(D)* to the offender, along with a packet containing the forms for use in applying to the court for a CDFS in which the offender may complete and file "pro se." The motion and eligibility form must be served on the county attorney serving in the county of the presiding district court.
 - 6) explain to offender that he/she must ensure the Officer receives a copy of the signed order for CDFS in order to terminate offender's supervision.

4. If offender is granted CDFS by the court, P&P Officer will:
 - a. complete OMIS termination moves using the date on the court order. A change in the offender's OMIS Location and Status will initiate VINE notification.
 - 1) Correctional Status showing release to court jurisdiction;
 - 2) Location (end date); and
 - 3) Officer (end date).
 - b. return offender's field file to county of commitment. File is placed in CDFS files until date of offender's sentence expiration/termination. Files are then placed with inactive files and retained pursuant to *PPD 1.5.501 Case Records Organization, Management, and Retention*.

5. **Offenders for whom an eligibility form was provided and submitted with the offender's motion for CDFS, but the motion was denied by the Court shall be supervised using the guidelines provided in *PPD 6.3.401 Case Management for Adult Offenders*.**

IV. CLOSING:

Questions concerning this procedure shall be directed to the POII, Deputy Chief, or Probation & Parole Bureau Chief.

V. FORMS:

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| PPD 4.6.205 (A) | Parolee Eligible for Conditional Discharge from Supervision |
| PPD 4.6.205 (B) | Probationer Eligible for Conditional Discharge from Supervision |
| PPD 4.6.205 (D) | Conditional Discharge from Supervision Information |