



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

Procedure:	PPD 4.6.206 EARLY TERMINATION OF SUSPENDED OR DEFERRED SENTENCES	
Effective Date:	10/13/2017	Page 1 of 4
Revision Date(s):	07/29/2019; 02/10/2020; 05/05/2020; 08/16/2021	
Reference(s):	PPD 4.6.205; PPD 6.3.401; 46-18-204, MCA; 46-18-208, MCA	
Signature / Title:	Kim Lahiff, Acting Probation and Parole Division Administrator	

I. PURPOSE:

Probation & Parole Officers will follow established procedures for the early termination of the remaining portion of an offender’s suspended or deferred sentence.

II. DEFINITIONS:

Early Termination of Deferred or Suspended Sentence – When imposition of a sentence has been deferred or execution of a sentence has been suspended, a motion may be filed with the court to terminate the time remaining on the sentence if certain circumstances are met. §46-18-208, MCA

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. ELIGIBILITY FOR EARLY TERMINATION:

1. Pursuant to §46-18-208, MCA, when imposition of a sentence has been deferred or execution of a sentence has been suspended, the prosecutor, offender, or offender’s attorney may file a motion to terminate the time remaining on the sentence if:
 - a. *Deferred Sentences*: The offender has served two (2) years or one-half (1/2) of the deferred sentence, whichever is less, and has demonstrated compliance with supervision requirements.
 - b. *Suspended Sentences*: The offender has served three (3) years or two-thirds (2/3) of the time suspended, whichever is less, AND has been granted a conditional discharge from supervision

(CDFS) under §46-23-1011, MCA, and has demonstrated compliance with the CDFS for a minimum of 12 months.

2. The court may hold a hearing on its own volition or on request of the county attorney or the offender. The court may grant the motion if it finds that termination of the remainder of the sentence:
 - a. is in the best interests of society and the offender;
 - b. termination will not present an unreasonable risk of danger to the victim of the offense; and
 - c. the offender has paid all restitution and court-ordered financial obligations in full.

B. SUSPENDED SENTENCE - PROCEDURES:

1. If a court requests input from a supervising P&P Officer regarding the early termination of a probationer's suspended sentence, the Officer will complete a NCIC check on the offender for any outstanding warrants and provide the results to the court.
2. If the probationer is granted early termination, Officer will request to meet with the offender and be provided a copy of the signed order for early termination. Officer will complete the following with the offender. If offender does not make him/herself available to Officer, Officer will note this on the forms and in an OMIS chronological entry.
 - a. Section II of *PPD 6.3.201(B) Firearms and Voting Regulations* unless the offender is an out-of-state offender. A chronological note is made to document the section review of the *Regulations* and a signed form is retained in offender's file. Offender should contact ATF prior to possessing firearms;
 - b. Section II of *PPD 1.5.1000(A) Duty to Register Letter* if applicable for a sexual or violent offender; and
 - c. upload the order and forms into offender's OMIS record; and
 - d. complete OMIS termination moves using the date the Officer received notification that early termination was granted, even if significant time has passed since the termination was granted. If significant time has passed, a chronological note will be made to explain why the OMIS termination date differs from the date early termination was granted. A change in the offender's OMIS Location and Status will initiate VINE notification.
 - 1) Correctional Status to *Court-ordered early release*;
 - 2) Location (end date); and
 - 3) Officer (end date).
3. The probationer's field file will be placed with inactive files and retained pursuant to *PPD 1.5.501 Case Records Organization, Management, and Retention*.

C. DEFERRED SENTENCE - PROCEDURES:

1. When a probationer with a deferred sentence may be eligible for early termination of his/her remaining time on the sentence, the supervising P&P Officer may consider an early termination after a review of the following;
 - a. probationer's judgment to determine if early release is not prohibited; and
 - b. probationer's compliance with statutory provisions and with supervision requirements by completing all court-ordered conditions including treatment mandates, restitution, court-ordered fines, etc.; and

- c. the supervising P&P Officer will check OMIS and VINE for victims 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 victims regarding the offender's eligibility for an early termination and the court filing.
 - 1) Officer will explain the process of early termination and what it means in regards 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; and
 - 5) Officer will review all victim input and will staff with supervisor if victim opposes the early termination. Officer will provide victim input to the county attorney.
2. If offender is eligible for early termination, the P&P Officer will complete *PPD 4.6.206(A) Probationer Eligible for Early Termination of Deferred Sentence* and upload it into offender's OMIS record.
 - a. If offender is a sexual or violent offender, *PPD 4.6.206(A)* and attachments are submitted for review and approval to the Deputy Chief. For out-of-state Montana cases, the *PPD 4.6.206(A)* and attachments are submitted to the Compact Administrator for review and approval.
 - b. Electronic signatures are NOT accepted on the form; it MUST be signed by the P&P Officer.
 - c. *PPD 4.6.206(A)* 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 court-ordered conditions;
 - 6) payment of restitution, fees, and fines;
 - 7) offender's risk assessment;
 - 8) risk to the victim, when applicable;
 - 9) victim notification information, when applicable.
3. P&P Officer will meet with offender, discuss the process for early termination, and provide the following:
 - a. *PPD 4.6.206(A) Probationer Eligible for Early Termination of Deferred Sentence*;
 - b. a packet containing the forms for use in applying to the court for early termination or remaining sentence and dismissal of underlying charges of the deferred sentence 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; and
 - c. explain to offender that he/she must ensure the Officer receives a copy of the signed order for early termination in order to terminate offender's supervision.

4. If the probationer is granted early termination, P&P Officer will meet with the offender and complete the following. If offender does not make him/herself available to Officer, Officer will note this on the forms and in an OMIS chronological entry. Both forms are uploaded into offender's OMIS record, a chronological note is made to document the section II review of the forms, and a signed form is retained in offender's file:
 - a. Section II of *PPD 6.3.201(B) Firearms and Voting Regulations Form* unless the offender is an out-of-state offender. Offender should contact ATF prior to possessing firearms;
 - b. Section II of *PPD 1.5.1000(A) Duty to Register Letter* if applicable for a sexual or violent offender; and
5. Upon receipt of the court order for early termination and dismissal of charges, P&P Officer will:
 - a. upload the order into OMIS record;
 - b. complete a *Special Records Handling (SRH) Order* following the SRH Instructions;
 - c. email the *SRH Order* and a copy of the court order to MSPrecords@mt.gov;
 - d. complete OMIS termination moves using the date the Officer received notification that early termination was granted, even if significant time has passed since the early termination was granted. If significant time has passed, a chronological note will be made to explain why the OMIS termination date differs from the date early termination was granted. A change in the offender's OMIS Location and Status will initiate VINE notification.
 - 1) Correctional Status to *Court-ordered early release*;
 - 2) Location (end date); and
 - 3) Officer (end date).
 - e. place offender's field file with inactive files and retain pursuant to *PPD 1.5.501 Case Records Organization, Management, and Retention*.
6. **Offenders for whom *PPD 4.6.206(A) Probationer Eligible for Early Termination of Deferred Sentence* form was submitted with the offender's motion for early termination, 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 Probation & Parole Bureau Chief, Deputy Chief or designee.

V. FORMS:

PPD 4.6.206 (A)	Probationer Eligible for Early Termination of Deferred Sentence
PPD 1.5.1000 (A)	Duty to Register Letter
PPD 6.3.201 (B)	Firearm and Voting Regulations Form
MSP Records	Special Records Handling (SRH) Order