



**PROBATION AND PAROLE BUREAU
STANDARD OPERATING PROCEDURES**

Procedure No.: P&P 60-3	Subject: CONDITIONAL DISCHARGE FROM SUPERVISION/ EARLY TERMINATION OF DEFERRED AND SUSPENDED SENTENCES
Reference: 46-18-208, MCA; 46-23-1011(5), MCA; 46-23-1020, MCA; 46-23-1021(6), MCA; ARM 20.25.704	Page 1 of 5
Effective Date: 06/01/01	Revision Dates: 12/10/01; 06/17/02; 01/13/03; 03/14/03; 12/31/08; 03/15/10; 08/10/11; 03/01/13
Signature / Title: /s/ Ron Alsbury, Probation & Parole Bureau Chief	

I. BUREAU DIRECTIVE:

Probation & Parole Officers will follow established procedures for requesting a conditional discharge from supervision for probationers and parolees, and/or for early termination of deferred and suspended sentences.

II. DEFINITIONS:

Bureau – The Montana Probation & Parole Bureau.

Conditional Discharge from Supervision – 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.

Department – The Montana Department of Corrections.

OMIS-Offender Management Information System – The Department’s electronic data collection and reporting system.

III. PROCEDURES:

A. CDFS – CONDITIONAL DISCHARGE FROM SUPERVISION

1. An offender granted a CDFS will no longer be under the supervision of the Bureau, but will remain under the jurisdiction of the District Court or Board of Pardons and Parole (BOPP) until the date of his/her sentence expiration/termination.
2. A District Court may conditionally discharge a probationer or the BOPP may conditionally discharge a parolee from standard supervision upon recommendation of the supervising Probation & Parole Officer (Officer) if it is determined 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. All restitution and court-ordered financial obligations must be paid in full.
 - b. The BOPP must consider parole achievement credits of §46-23-1027, MCA, in granting a CDFS.

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- c. The BOPP may order the parolee to submit written reports to the BOPP once a year that report the parolee’s address and any contacts he/she had with law enforcement.
- 3. Supervising Officers will review parolees’ files and may recommend a CDFS after a parolee has served one (1) year of active supervision.
- 4. Pursuant to referenced statutes, the Bureau may also recommend an offender for CDFS if the workload is above the level of resources available to appropriately supervise offenders.
- 5. **Sexual and Violent Offenders** shall not be given a CDFS without the approval of the Regional Administrator (RA) and Bureau Chief. Out-of-state sexual/violent offenders will also be reviewed by the Deputy Compact Administrator when applying for a CDFS.
- 6. Any sexual or violent offender on supervision for life is not eligible for CDFS.
- 7. Revocation of CDFS
 - a. A 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:
 - i. is charged with a felony offense;
 - ii. 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
 - iii. violates any court-ordered condition.
 - b. A parolee granted a CDFS by the BOPP may be returned to active supervision; have the conditions of the CDFS amended; or have his/her parole revoked if, within the time remaining on the sentence that was conditionally discharged, the BOPP determines it to be in the best interest of society and the parolee:
 - i. is charged with a felony offense;
 - ii. 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
 - iii. fails to annually report his/her address and law enforcement contacts to the BOPP.
 - c. Any notification to the Bureau regarding any alleged violation by a CDFS offender being charged with one of the above-listed offenses will be referred as follows:
 - i. to the County Attorney of record for probationer;
 - ii. to the BOPP for parolee.

8. PROCEDURE:

RESPONSIBILITY:

- a. *P&P 60-3(A) Request for Conditional Discharge From Supervision* is completed and submitted to supervisor, or to the Deputy Compact Administrator for interstate cases, for review of all circumstances and approval. The *Request* will contain the following:
 - i. information on the instant offense and criminal history;
 - ii. offender’s employment history while under supervision;
 - iii. information regarding the offender’s general attitude;
 - iv. supervision history including length of supervision period and the offender’s involvement in treatment;

P&P Officer
RA or POII

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- v. verification of compliance with Department, court-ordered, and/or BOPP conditions;
 - vi. payment of restitution, fees and fines; and
 - vii. offender’s risk assessment.
- b. Upon approval of *P&P 60-3(A) Request for CDFS*:
- i. **Parole Cases:** The *Request* is forwarded to the BOPP for consideration. If approved, the BOPP will prepare an order for distribution. P&P Officer
BOPP
 - ii. **Probation Cases:** Both *P&P 60-3(A) Request* and *P&P 60-3(B) Recommendation for Conditional Discharge from Supervision* are completed and presented to the County Attorney. Upon agreement with the County Attorney, both the *Request* and *Recommendation* are submitted to the District Court judge. If the judge approves, he/she will sign the Order on the bottom of the *Recommendation*. P&P Officer
County Attorney
 - iii. **Parole Case with Probation time to follow:** The *Request* and *Recommendation* are presented to the District Court first. Upon the judge’s approval, the forms are then forwarded to the BOPP. P&P Officer
County Attorney
BOPP
- c. Officer will notify victim(s) registered with the Department for notification of offender status. P&P Officer
- d. Upon notification that a CDFS is granted, Officer meets with the offender: P&P Officer
- i. Reviews circumstances that may result in revocation of CDFS (see #7 above).
 - ii. Section II of *P&P 60-1(B) Firearm Regulations Form* is completed and reviewed with offender (unless the offender is an out-of-state offender):
 - 1) remind offender that his/her sentence has not yet expired and therefore, his/her right to possess a firearm is not possible until the sentence expires or the court terminates the sentence;
 - 2) offender should contact ATF prior to possessing firearms once sentence is expired/terminated; and
 - 3) *Form* is signed, original placed in offender’s file and a copy is provided to offender.
 - iii. If offender has a deferred sentence, Officer will advise of procedures for dismissal of charges upon discharge of offender’s sentence.
 - iv. Completed *P&P 60-3(C) Conditional Discharge Letter* is reviewed with offender. Original *Letter* is given to offender and a copy placed in offender’s file.
 - v. Officer will advise probation offender of early termination procedures.

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- e. Completes OMIS termination moves. **Date entered should be date *P&P 60-3(C) Conditional Discharge Letter* is completed.** P&P Officer
 If significant time has passed since the CDFS was granted and *Letter* is completed, a chronological note will be made explaining why the OMIS termination date is different than the date the CDFS was granted.
 - i. Termination Assessment;
 - ii. Correctional Status showing release to court or BOPP jurisdiction;
 - iii. Location (end date); and
 - iv. Officer (end date).

- f. The probation offender's field file is returned to county of commitment and placed in CDFS files until date of offender's sentence expiration/termination. Files are then placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*. P&P Officer

- g. The parole offender'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 *P&P 40-7 Offender Records Retention and Destruction*. P&P Officer
BOPP

B. EARLY TERMINATION OF A DEFERRED OR SUSPENDED SENTENCE

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 or offender may file a petition to terminate the time remaining on the sentence if:
 - a. Deferred Sentences: The offender has served one-half of the deferred sentence and has demonstrated compliance with supervision requirements by completing all court-ordered conditions including treatment mandates, restitution, court-ordered fines, etc.
 - b. Suspended Sentences: The offender has served two-thirds of the time suspended AND has been granted a CDFS and has demonstrated compliance with the CDFS for a minimum of 12 months.

2. The court may hold a hearing on the petition on its own motion or upon request of the prosecutor or the offender.

3. The court may grant the petition if it finds that termination of the remainder of the sentence is in the best interests of society and the offender; termination will not present an unreasonable risk of danger to the victim of the offense; and the offender has paid all restitution and court-ordered financial obligations in full.

4. Officers may utilize *P&P 60-3(F) Petition for Early Termination of Deferred or Suspended Sentence* to assist an offender who has met the criteria to petition the court for termination of a deferred or suspended sentence. The *Petition* also provides for the dismissal of deferred sentences. The *Petition* is completed and forwarded to the County Attorney of record who then submits it to the court.

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5. If Officer receives notification that early termination was granted for a CDFS offender who was released to the court's jurisdiction, he/she will make an OMIS chronological entry noting early termination. If completed *Petition* is returned to the Officer, he/she will have copy placed in offender's field file, and original returned to offender. The field file will be placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*.
6. When Officer receives notification that early termination was granted for an offender **not** previously released on CDFS:
 - a. He/she will meet with offender to complete section II of *P&P 60-1(B) Firearm Regulations Form* unless the offender is an out-of-state offender. A copy of the form is provided to offender and original is placed in offender's file.
 - b. Officer will complete OMIS termination moves using the date 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:
 - i. Termination Assessment
 - ii. Correctional Status
 - iii. Location (end date)
 - iv. Officer (end date)
 - c. The offender's field file will be placed with inactive files and retained pursuant to *P&P 40-7 Offender Records Retention and Destruction*.
7. Officer will notify victim(s) registered with the Department for notification of offender status.

IV. CLOSING:

Questions concerning this procedure shall be directed to the RA or designee.

Forms

P&P 60-3(A)	Request for Conditional Discharge From Supervision
P&P 60-3(A-1)	Sample of Request
P&P 60-3(B)	Recommendation for Conditional Discharge from Supervision
P&P 60-3(C)	Conditional Discharge Letter
P&P 60-3(F)	Petition for Early Termination of Deferred or Suspended Sentence
P&P 60-1(B)	Firearm Regulations Form