§ 65.05 Sentence of conditional discharge.

1. Criteria. (a) Except as otherwise required by section 60.05, the court may impose a sentence of conditional discharge for an offense if the court, having regard to the nature and circumstances of the offense and to the history, character and condition of the defendant, is of the opinion that neither the public interest nor the ends of justice would be served by a sentence of imprisonment and that probation supervision is not appropriate.

(b) When a sentence of conditional discharge is imposed for a felony, the court shall set forth in the record the reasons for its action.

2. Sentence. Except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, when the court imposes a sentence of conditional discharge the defendant shall be released with respect to the conviction for which the sentence is imposed without imprisonment or probation supervision but subject, during the period of conditional discharge, to such conditions as the court may determine. The court shall impose the period of conditional discharge authorized by subdivision three of this section and shall specify, in accordance with section 65.10, the conditions to be complied with. If a defendant is sentenced pursuant to paragraph (e) of subdivision two of section 65.10 of this chapter, the court shall require the administrator of the program to provide written notice to the court of any violation of program participation by the defendant. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

3. Periods of conditional discharge. Unless terminated sooner in accordance with the criminal procedure law, the period of conditional discharge shall be as follows:

(a) Three years in the case of a felony; and

(b) One year in the case of a misdemeanor or a violation.

Where the court has required, as a condition of the sentence, that the defendant make restitution of the fruits of his or her offense or make

reparation for the loss caused thereby and such condition has not been satisfied, the court, at any time prior to the expiration or termination of the period of conditional discharge, may impose an additional period. The length of the additional period shall be fixed by the court at the time it is imposed and shall not be more than two years. All of the incidents of the original sentence, including the authority of the court to modify or enlarge the conditions, shall continue to apply during such additional period.