

NEWS RELEASE

Spencer B. Merriweather III
District Attorney

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DA Merriweather: Access to deferred prosecution no longer limited by inability to pay

CHARLOTTE, N.C. – Effective immediately, the Mecklenburg County District Attorney's Office will offer a chance at deferred prosecution to qualifying defendants without first requiring a down payment on restitution as a condition of entry into the program. District Attorney Spencer B. Merriweather III conducted a review of the office's deferred prosecution policy and concluded that removal of the requirement to pay down restitution before admitting offenders into the program is appropriate.

This change will enable more first-time offenders to have a chance at keeping their record clean, instead of excluding some merely because of a lack of financial resources. The District Attorney's Office will continue to work to secure restitution for crime victims who have suffered a monetary loss by requiring that restitution be made to victims over the course of defendants' approximately two years in the deferred prosecution program.

"By removing the monetary threshold for this program, we believe we can make a good program more equitable and accessible," says DA Merriweather.

What is deferred prosecution? Years ago, the Mecklenburg County District Attorney's began a deferred prosecution program that allows a first-time offender charged with a low-level, non-violent crime to earn a dismissal of the charge, thus avoiding the long-term consequences of a criminal conviction that can affect employment and housing. When qualifying defendants enter the program, they are placed on supervised probation for about two years. They are assigned a probation officer, and they must comply with the set conditions of probation, which may include community service, restitution to a victim or drug testing when appropriate. At the end of the two-year term, if a defendant has complied with the conditions of his probation and committed no new crimes, a dismissal of the charge is granted.

Why change the policy? In cases in which restitution was owed to a victim, an office policy set years ago required defendants to owe no more than \$1,000 to the victim before they could be granted entry in the program. This means that defendants who owed more than that amount were required to pay down their outstanding restitution amount to at least \$1,000. (For example, if \$2,500 in restitution was owed to the victim, the defendant would have to pay at least \$1,500 to the victim before he was allowed to enter the deferred prosecution program.) The unintended consequence of this policy was that a defendant with the means to pay upfront received an opportunity to obtain a clean record while another defendant who lacks such means would face prosecution – even if both were first-time offenders charged with the same crime.

Under the new policy, restitution will be required to be repaid by defendants as a part of the conditions of deferred prosecution. If restitution is not repaid, the defendant will be brought before a judge who will determine if the failure to pay is willful and what, if any, sanctions the defendant will receive.

“We will not deny a deserving defendant a chance at a clean record simply because of their economic status,” says DA Merriweather. “Additionally for many offenders, eliminating this admission threshold will facilitate a chance at avoiding a first felony conviction, removing some obstacles to gainful employment and making it more likely victims who have suffered a loss will be made whole.”

Note: For more information about the District Attorney’s Office, visit www.charmeckda.com. For updates and other information, “like” the DA’s Office on Facebook at www.facebook.com/charmeckda and follow us on Twitter: @CharMeckDA.

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