

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 1464
PROPOSED COMMITTEE SUBSTITUTE H1464-PCS50668-SA-29**

Short Title: Clarify DV Laws/Arrest/Valid Protective Order.

(Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

1
2 AN ACT TO CLARIFY DOMESTIC VIOLENCE LAWS REGARDING WHEN A LAW
3 ENFORCEMENT OFFICER SHALL ARREST A PERSON WHO HAS KNOWINGLY
4 VIOLATED A VALID PROTECTIVE ORDER DESPITE THE 2006 HOLDING BY THE
5 NORTH CAROLINA COURT OF APPEALS IN COCKERHAM-ELLERBEE V. THE
6 TOWN OF JONESVILLE.

7 Whereas, in a 2006 opinion in Cockerham-Ellerbee v. The Town of Jonesville, the
8 North Carolina Court of Appeals interpreted G.S. 50B-4.1(b) to be a discretionary provision
9 rather than a mandatory one; and

10 Whereas, the intent of the North Carolina General Assembly in enacting
11 G.S. 50B-4.1(b) was to create a mandatory provision; Now, therefore,
12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** Notwithstanding the holding by the North Carolina Court of Appeals
14 in Cockerham-Ellerbee v. The Town of Jonesville, 176 N.C. App. 372, 626 S.E.2d 685 (2006),
15 G.S. 50B-4.1(b) creates a mandatory provision requiring a law enforcement officer to arrest and
16 take a person into custody without a warrant or other process if the requirements set forth in the
17 subsection are met.

18 **SECTION 2.** This act is effective when it becomes law.

