

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1464  
Committee Substitute Favorable 5/7/09  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1464-PCS11009-SA-51

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

(Public)

Sponsors:

Referred to:

April 13, 2009

1 A BILL TO BE ENTITLED  
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.** G.S. 50B-4.1(b) reads as rewritten:

19 "(b) A law enforcement officer shall arrest and take a person into ~~custody~~custody, with  
20 or without a warrant or other ~~process~~process, if the officer has probable cause to believe that  
21 the person knowingly has violated a valid protective order excluding the person from the  
22 residence or household occupied by a victim of domestic violence or directing the person to  
23 refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9)."

24 **SECTION 3.** This act is effective when it becomes law.

