

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-389
HOUSE BILL 1464**

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

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

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

The General Assembly of North Carolina enacts:

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

SECTION 2. G.S. 50B-4.1(b) reads as rewritten:

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

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

In the General Assembly read three times and ratified this the 23rd day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ William L. Wainwright
Speaker Pro Tempore of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 12:25 p.m. this 31st day of July, 2009

