

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**HOUSE BILL 1464
RATIFIED BILL**

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 ~~eustody~~custody, with or without a warrant or other ~~prœess~~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.

Walter H. Dalton
President of the Senate

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

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2009