

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 694

Short Title: Family Violence/Warrantless Arrest.

(Public)

Sponsors: Senators Marvin; Tally, Hunt of Moore, and Ward.

Referred to: Judiciary I.

March 30, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT AN ARREST MAY BE MADE WITHOUT A
WARRANT IF A LAW ENFORCEMENT OFFICER HAS PROBABLE CAUSE
TO BELIEVE THAT AN ACT OF DOMESTIC VIOLENCE HAS OCCURRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-401(b) reads as rewritten:

"(b) Arrest by Officer Without a Warrant.

(1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.

(2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:

a. Has committed a felony; or

b. Has committed a misdemeanor, and:

1. Will not be apprehended unless immediately arrested, or

2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or

c. Has committed a misdemeanor under ~~G.S. 14-72.1~~. G.S. 14-72.1; or

d. Has committed a misdemeanor that also constitutes an act of domestic violence as defined in G.S. 50B-1.

(3) ~~Subdivisions (1) and (2) shall apply to arrest for assault, for communicating a threat, or for domestic criminal trespass, already committed or being committed by a person who is the spouse or former~~

1 spouse of the alleged victim or by a person with whom the alleged
2 victim is living or has lived as if married."

3 Sec. 2. G.S. 50B-4 reads as rewritten:

4 "**§ 50B-4. Enforcement of ~~orders.~~ orders; warrantless arrest.**

5 (a) A party may file a motion for contempt for violation of any order entered pursuant to
6 this Chapter.

7 (b) A law-enforcement officer shall arrest and take a person into custody without
8 a warrant or other process if the officer has probable cause to believe (i) that the person
9 has committed a misdemeanor that is also an act of domestic violence as defined in G.S.
10 50B-1 or (ii) that the person has violated a court order excluding the person from the
11 residence or household occupied by a victim of domestic violence or directing the
12 person to refrain from harassing or interfering with the victim, and if the victim, or
13 someone acting on the victim's behalf, presents the law-enforcement officer with a copy
14 of the order or the officer determines that such an order exists, and can ascertain the
15 contents thereof, through phone, radio or other communication with appropriate
16 authorities. The person arrested shall be brought before the appropriate district court
17 judge at the earliest time possible to show cause why he or she should not be held in
18 civil contempt for violation of the order. The person arrested shall be entitled to be
19 released under the provisions of Article 26, Bail, of Chapter 15A of the General
20 Statutes."

21 Sec. 3. This act shall become effective October 1, 1989, and shall apply to
22 offenses occurring on or after that date.