

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE BILL 440*

Short Title: Failure to Appear/Citation. (Public)

Sponsors: Senators Clodfelter; and Dannelly.

Referred to: Judiciary I.

March 17, 2003

A BILL TO BE ENTITLED
AN ACT TO ALLOW THE COURT TO ISSUE AN ORDER FOR ARREST WHEN A
DEFENDANT FAILS TO APPEAR IN COURT AFTER RECEIVING A
CITATION FOR A MISDEMEANOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-302(f) reads as rewritten:

"(f) Citation No Bar to Criminal Summons or Warrant. – If the offense is a misdemeanor, a criminal summons or a warrant may issue notwithstanding the prior issuance of a citation for the same offense. If a defendant fails to appear in court as directed by a citation that charges the defendant with a misdemeanor, an order for arrest for failure to appear may be issued by a judicial official."

SECTION 2. G.S. 15A-305(b) reads as rewritten:

"(b) When Issued. – An order for arrest may be issued when:

- (1) A grand jury has returned a true bill of indictment against a defendant who is not in custody and who has not been released from custody pursuant to Article 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.
- (2) A defendant who has been arrested and released from custody pursuant to Article 26 of this Chapter, Bail, fails to appear as required.
- (3) The defendant has failed to appear as required by a duly executed criminal summons issued pursuant to ~~G.S. 15A-303~~, G.S. 15A-303 or a citation issued by a law enforcement officer or other person authorized by statute pursuant to G.S. 15A-302 that charged the defendant with a misdemeanor.
- (4) A defendant has violated the conditions of probation.
- (5) In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody.

- 1 (6) It is authorized by G.S. 15A-803 in connection with material witness
2 proceedings.
3 (7) The common-law writ of *capias* has heretofore been issuable.
4 (8) When a defendant fails to appear as required in a show cause order
5 issued in a criminal proceeding.
6 (9) It is authorized by G.S. 5A-16 in connection with contempt
7 proceedings."
8 **SECTION 3.** This act is effective when it becomes law.