

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS35016-RK-1 (12/29)

Short Title: Violate Order/Possess Deadly Weapon Felony. (Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE A FELONY OFFENSE FOR PERSONS WHO KNOWINGLY VIOLATE A DOMESTIC VIOLENCE PROTECTIVE ORDER WHILE ARMED WITH A DEADLY WEAPON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-4.1 reads as rewritten:

"§ 50B-4.1. Violation of valid protective order.

(a) Except as otherwise provided by law, a person who knowingly violates a valid protective order entered pursuant to this Chapter or who knowingly violates a valid protective order entered by the courts of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.

(b) A law enforcement officer shall arrest and take a person into custody without a warrant or other 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).

(c) When a law enforcement officer makes an arrest under this section without a warrant, and the party arrested contests that the out-of-state order or the order issued by an Indian court remains in full force and effect, the party arrested shall be promptly provided with a copy of the information applicable to the party which appears on the National Crime Information Center registry by the sheriff of the county in which the arrest occurs.

(d) Unless covered under some other provision of law providing greater punishment, a person who commits a felony at a time when the person knows the behavior is prohibited by a valid protective order as provided in subsection (a) of this section shall be guilty of a felony one class higher than the principal felony described in the charging document. This subsection shall not apply to a person who is charged with

1 or convicted of a Class A or B1 felony or to a person charged under subsection (f) or
2 subsection (g) of this section.

3 (e) An indictment or information that charges a person with committing
4 felonious conduct as described in subsection (d) of this section shall also allege that the
5 person knowingly violated a valid protective order as described in subsection (a) of this
6 section in the course of the conduct constituting the underlying felony. In order for a
7 person to be punished as described in subsection (d) of this section, a finding shall be
8 made that the person knowingly violated the protective order in the course of conduct
9 constituting the underlying felony.

10 (f) Unless covered under some other provision of law providing greater
11 punishment, any person who knowingly violates a valid protective order as provided in
12 subsection (a) of this section, after having been previously convicted of three offenses
13 under this Chapter, shall be guilty of a Class H felony.

14 (g) Unless covered under some other provision of law providing greater
15 punishment, any person who, while in possession of a deadly weapon, knowingly
16 violates a valid protective order as provided in subsection (a) of this section by failing to
17 stay away from a place, or a person, as so directed under the terms of the order, shall be
18 guilty of a Class G felony."

19 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
20 offenses committed on or after that date.