

— VEST FIRST RESPONDER —
HELP FOR HEROES

NEBRASKA

Self-Defense Law Reference Guide

Castle Doctrine | Duty to Retreat | Self-Defense | First Responder Protections | Chokehold & Carotid Restraint Law

CERTIFIED TRAINER SUPPLEMENTAL DOCUMENT

This document is intended exclusively for VEST Certified Trainers delivering VEST Level I, II, and III curriculum in the state of Nebraska. It is not a substitute for legal counsel. Trainers should direct participants with individual legal questions to a licensed attorney in their jurisdiction.

⚠ IMPORTANT: NEBRASKA IS NOT A STAND YOUR GROUND STATE

Nebraska does NOT have a Stand Your Ground law. The state imposes a conditional duty to retreat before using deadly force in public spaces when retreat can be accomplished with complete safety. However, Nebraska's Castle Doctrine extends no-retreat protections to both your DWELLING and your PLACE OF WORK — a broader protection than many states. First responders must understand both the duty-to-retreat limitation in public and the workplace extension of the Castle Doctrine.

PART I: THE NEBRASKA SELF-DEFENSE STATUTORY FRAMEWORK

Nebraska's self-defense laws are codified in Chapter 28, Article 14 of the Nebraska Revised Statutes (Neb. Rev. Stat.). The primary provisions — §§ 28-1409 through 28-1416 — form a comprehensive framework addressing use of force in self-protection, protection of others, defense of dwelling and workplace (the Castle Doctrine), defense of property, and the use of force by law enforcement. Nebraska is NOT a Stand Your Ground state, but its Castle Doctrine extends uniquely to both the dwelling and the place of work.

CORE STATUTE MAP

STATUTE	SUBJECT MATTER
Neb. Rev. Stat. § 28-1409	Use of Force in Self-Protection — Core Standard
Neb. Rev. Stat. § 28-1409(3)	Retreat Requirement — Deadly Force in Public
Neb. Rev. Stat. § 28-1409(3)(i)	Castle Doctrine — No Duty to Retreat in Dwelling or Place of Work
Neb. Rev. Stat. § 28-1409(4)	Deadly Force — Limitations and Thresholds
Neb. Rev. Stat. § 28-1410	Use of Force for Protection of Others
Neb. Rev. Stat. § 28-1411	Defense of Property

Neb. Rev. Stat. §§ 28-929–28-931	Assault of Emergency Responder — Three-Tiered Felony Penalties
Neb. Rev. Stat. § 28-931.01	Assault Using a Motor Vehicle — Class IIIA Felony
Neb. Rev. Stat. § 81-1414.16	Chokehold & Carotid Restraint Prohibition (LB51, 2021)
Neb. Rev. Stat. § 81-1414.17	Duty to Intervene Against Excessive Force (LB51, 2021)

Neb. Rev. Stat. § 28-1409 — Use of Force in Self-Protection

This is Nebraska's foundational self-defense provision. It establishes when any person may justifiably use force — including deadly force — to protect themselves.

"Subject to the provisions of this section and of section 28-1414, the use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion."

THE THREE-PART NEBRASKA SELF-DEFENSE TEST (State v. Graham, 234 Neb. 275):

1. The belief that force is necessary must be reasonable and in good faith.
2. The force must be immediately necessary on the present occasion.
3. The force used must be justified under the circumstances.

'Immediately necessary' is a distinctive and operationally important phrase. Nebraska courts have interpreted this to mean the force must be required RIGHT NOW — not anticipated for later, not based on a past threat. Courts apply both an objective standard (would a reasonable person believe force was necessary?) and a subjective standard (did this person actually believe it?). Both elements must be satisfied.

IMPORTANT LIMITATIONS — WHEN SELF-DEFENSE DOES NOT APPLY (§ 28-1409(2)):

- You cannot use force to resist an arrest that you know is being made by a peace officer, even if the arrest is unlawful.
- You cannot use force if you provoked the incident with the purpose of causing death or serious bodily harm.
- You cannot use deadly force if you know you can avoid the necessity of such force with complete safety by retreating (except in your dwelling or place of work — see Castle Doctrine below).

FOR FIRST RESPONDERS:

Neb. Rev. Stat. § 28-1409 applies to EMS and fire personnel as civilians. A paramedic or firefighter attacked during a call may use force — including deadly force when the threshold is met — to defend themselves or a partner. The 'immediately necessary on the present occasion' language is operationally significant: it emphasizes that force must be a response to an ongoing, active threat, not a precautionary measure or retaliation.

Neb. Rev. Stat. § 28-1409(4) — Deadly Force Standard

Deadly force carries a higher threshold under Nebraska law. Under § 28-1409(4), deadly force is justified only when the actor believes it is necessary to protect against:

4. Death or serious bodily harm;
5. Kidnapping; or
6. Sexual intercourse compelled by force or threat.

Deadly force is NOT justified if the actor provoked the use of force against themselves in the same encounter with the purpose of causing death or serious bodily harm. It is also NOT justified if the actor knows they can avoid the necessity of such force with complete safety by retreating — except within their dwelling or place of work.

"The use of deadly force shall not be justifiable under this section unless the actor believes that such force is necessary to protect himself against death or serious bodily harm, nor is it justifiable if the actor, with the purpose of causing death or serious bodily harm, provoked the use of force against himself in the same encounter or the actor knows that he can avoid the necessity of using such force with complete safety by retreating." — State v. Menser, 222 Neb. 36 (1986)

Importantly, Nebraska case law clarifies that a defendant's use of deadly force is justified if a reasonable ground existed for the belief they were threatened with death or serious bodily harm — even if the defendant was actually mistaken about the extent of the danger, provided the mistake was reasonable. (State v. Miller, 281 Neb. 343, 2011)

Neb. Rev. Stat. § 28-1410 — Use of Force for Protection of Others

Nebraska specifically addresses the protection of third persons in § 28-1410. This statute governs when force may be used to defend someone other than yourself.

"The use of force upon or toward the person of another is justifiable to protect a third person when: (a) The actor would be justified under section 28-1409 in using such force to protect himself against the injury he believes to be threatened to the person whom he seeks to protect; (b) Under the circumstances as the actor believes them to be, the person whom he seeks to protect would be justified in using such protective force; and (c) The actor believes that his intervention is necessary for the protection of such other person."

CRITICAL RETREAT PROVISION FOR DEFENSE OF OTHERS (§ 28-1410):

- When YOU would normally be required to retreat before using force in self-protection, you are NOT required to retreat before using force to protect ANOTHER PERSON — unless you know that retreating would secure the complete safety of that other person.
- When the person you are protecting would be obliged to retreat to secure their safety, you are required to try to cause THEM to retreat first — if you can do so safely.
- CRITICAL EXCEPTION: Neither you nor the person you are protecting is obliged to retreat when in the other's dwelling or place of work any more than in your own.

PARTNER DEFENSE — DIRECT LEGAL AUTHORITY:

Under § 28-1410, a Nebraska first responder who intervenes to protect a partner being violently attacked has direct statutory authority to use force — including deadly force when warranted. Importantly, even if YOU would normally have a duty to retreat in public, that duty is relaxed

when protecting another person who cannot safely retreat. VEST Level III partner defense training is directly grounded in this statute.

PART II: DUTY TO RETREAT — NEBRASKA'S NUANCED STANDARD

⚠ **CRITICAL: NEBRASKA HAS A CONDITIONAL DUTY TO RETREAT IN PUBLIC**

In public spaces — including most EMS and fire scenes outside of a dwelling or workplace — Nebraska law imposes a duty to retreat before using deadly force when retreat can be accomplished with complete safety. This is a meaningful legal constraint that first responders in Nebraska must understand and factor into their situational awareness and documentation practices.

Nebraska's duty to retreat is codified directly in § 28-1409(3) and applies to the use of deadly force in public spaces. The critical language is 'complete safety' — Nebraska only requires retreat when it can be done with complete safety. If retreating would expose you to greater danger, the duty to retreat may not apply.

"The actor knows that he can avoid the necessity of using such force with complete safety by retreating, surrendering possession of an item, or by complying with a demand that he or she abstain from any action which one has no duty to take, except that: The actor shall not be obliged to retreat from his or her dwelling or place of work, unless the person was the initial aggressor or is assailed in the place of work by another person whose place of work the actor knows it to be."

THE 'COMPLETE SAFETY' STANDARD — WHAT IT MEANS IN PRACTICE:

- Nebraska ONLY requires retreat if it can be accomplished with COMPLETE safety. Partial safety or uncertain safety does not trigger the retreat obligation.
- If retreat would expose you to greater harm, the duty to retreat does not apply — force is immediately necessary.
- The speed and nature of the attack matters enormously: if an attack is sudden and leaves no time for retreat, the 'immediately necessary' standard is met without retreat.
- Juries evaluate whether complete safe retreat was objectively available given the totality of the circumstances.

Where NO Retreat Is Required in Nebraska

CASTLE DOCTRINE — NO RETREAT IN DWELLING OR PLACE OF WORK:

- DWELLING — any private residence or fixed habitation. No retreat is required, regardless of who the attacker is (Nebraska courts have held this extends to co-residents — consistent with the logic of the home as protected space).
- PLACE OF WORK — Nebraska's Castle Doctrine explicitly extends to the WORKPLACE. No retreat is required when attacked in your place of work, as long as you did not initiate the aggression and the attacker is NOT also an employee at the same workplace.

- **EXCEPTION:** If you are assailed in your PLACE OF WORK by another person whose place of work you know it to be, the no-retreat protection may not apply. This is the 'co-worker exception' — if your attacker is also your coworker, the Castle Doctrine at the workplace may not shield you from the retreat obligation.

THE AMBULANCE AND FIRE STATION — NEBRASKA'S UNIQUE PROTECTION:

Nebraska's extension of Castle Doctrine protections to the 'place of work' creates a meaningful legal protection for EMS and fire responders that most states do not have. An EMS crew's ambulance base, fire station, and potentially an EMS scene they have established as a working environment may qualify as 'place of work' under Nebraska law — providing no-retreat protection even outside the literal home. **HOWEVER:** the 'co-worker exception' must be considered. An attack by a patient who is not an employee of your agency does NOT trigger the co-worker exception. An attack by a co-responder on your own crew presents a more complex analysis.

THE CO-WORKER EXCEPTION — WORKPLACE SAFETY IMPLICATIONS:

If a Nebraska first responder is attacked at their workplace by ANOTHER PERSON whose place of work it also is (i.e., a co-worker), the Castle Doctrine no-retreat protection may not apply. For EMS and fire contexts, the most likely scenario is an attack by a hospital employee while the crew is working at a hospital facility. In this specific scenario, the co-worker exception may require retreat before using deadly force if retreat can be accomplished with complete safety. This is a nuanced fact-specific analysis that trainers should address carefully.

PART III: FIRST RESPONDER ASSAULT — ENHANCED CRIMINAL PROTECTIONS

Nebraska has a comprehensive three-tiered system of assault statutes specifically protecting emergency responders, enacted under LB1002 (2020). These statutes explicitly name firefighters and emergency care providers alongside peace officers and create serious felony-level consequences for any assault on an on-duty first responder.

Neb. Rev. Stat. § 28-929 — Assault of Emergency Responder, First Degree (Class ID Felony)

A person commits first-degree assault of an emergency responder when they intentionally or knowingly cause **SERIOUS BODILY INJURY** to a peace officer, probation officer, firefighter, or emergency care provider engaged in the performance of their official duties.

Classification: Class ID Felony — carrying a mandatory minimum of 3 years imprisonment up to 50 years imprisonment. No probation is available for Class ID felony convictions in Nebraska.

- 'Emergency care provider' is explicitly defined to include EMTs, paramedics, and other emergency medical service personnel.
- The attack must occur while the responder is engaged in the performance of their official duties.
- No probation — a conviction requires imprisonment.

Neb. Rev. Stat. § 28-930 — Assault of Emergency Responder, Second Degree (Class II Felony)

Second-degree assault of an emergency responder covers intentionally or knowingly causing BODILY INJURY (a lower threshold than serious bodily injury) to a firefighter or emergency care provider through a dangerous instrument, or recklessly causing serious bodily injury with a dangerous instrument.

Classification: Class II Felony — carrying 1 to 50 years imprisonment.

- 'Dangerous instrument' is broadly defined and includes objects capable of inflicting bodily injury by how they are used — fists used as weapons, improvised tools, vehicles, and similar means have been found to qualify.
- Pepper spray has been held by Nebraska courts to constitute a 'dangerous instrument' for purposes of these assault statutes (State v. Simmons, 23 Neb. App. 462).

Neb. Rev. Stat. § 28-931 — Assault of Emergency Responder, Third Degree (Class IIIA Felony)

Third-degree assault of an emergency responder is the lowest tier but still a felony. It applies when a person intentionally, knowingly, OR RECKLESSLY causes bodily injury to a firefighter or emergency care provider in the performance of their duties.

Classification: Class IIIA Felony — carrying up to 3 years imprisonment and an 18-month post-release supervision period, and/or a fine up to \$10,000.

Critical: Even a reckless act that causes bodily injury to an on-duty first responder is a Class IIIA Felony in Nebraska. This is the lowest bar for felony prosecution of attacks on first responders in the state.

Neb. Rev. Stat. § 28-931.01 — Assault Using a Motor Vehicle (Class IIIA Felony)

Nebraska specifically addresses vehicle attacks on first responders in a standalone statute. Using a motor vehicle to run over, strike, or collide with a firefighter or emergency care provider's vehicle while they are performing official duties is a Class IIIA Felony — carrying up to 3 years imprisonment.

This statute is particularly relevant for roadway scene safety and traffic incident management. Any driver who intentionally uses a vehicle to strike or threaten an EMS provider or firefighter at a scene faces felony prosecution.

NEBRASKA'S FIRST RESPONDER PENALTY STRUCTURE — SUMMARY:

Nebraska's four-statute first responder assault framework covers the full spectrum from reckless bodily injury (Class IIIA Felony, up to 3 years) to intentional serious bodily injury (Class ID Felony, mandatory minimum 3 years up to 50 years, no probation). Even the lowest tier — a reckless act causing any bodily injury — triggers felony-level consequences. Trainers should ensure participants understand that any physical attack on an on-duty Nebraska first responder, however minor the resulting injury, creates serious criminal exposure for the attacker.

PART IV: POLICE USE OF FORCE & NECK RESTRAINT FRAMEWORK (LB51, 2021)

Nebraska enacted LB51 in May 2021, signed by Governor Ricketts on May 25, 2021. This comprehensive law enforcement reform package created Nebraska's first statutory prohibition on chokeholds and carotid restraint control holds, codified in Chapter 81 of the Nebraska Revised Statutes. The statute is notable because it treats CHOKEHOLDS and CAROTID RESTRAINTS under SEPARATE standards — a nuance that distinguishes Nebraska from most other states.

Neb. Rev. Stat. § 81-1414.16 — Chokehold and Carotid Restraint Prohibition

DEFINITIONS — § 81-1414.16(1):

"(b) Carotid restraint control hold means utilizing bilateral pressure to the sides of a person's neck, restricting the flow of oxygenated blood to the brain; (c) Chokehold means intentionally applying pressure to the front of the throat and cutting off air flow for a sustained amount of time."

THE SEPARATE STANDARDS — CHOKEHOLD vs. CAROTID RESTRAINT:

Nebraska's LB51 creates TWO distinct standards for the two different techniques — a legally significant distinction:

CHOKEHOLD (airway restriction):

"A police officer is prohibited from intentionally using a chokehold on a person, except when deadly force is authorized."

Standard: A chokehold may ONLY be used when deadly force is authorized. This aligns with the deadly force threshold under § 28-1409(4) — imminent death, serious bodily injury, kidnapping, or sexual assault.

CAROTID RESTRAINT CONTROL HOLD (blood flow restriction):

"An officer is prohibited from using a carotid restraint control hold on any person unless the officer believes the individual would cause death or bodily injury to others or deadly force is authorized AND the officer is trained in the restraint technique."

Standard: A carotid restraint has TWO additional requirements beyond the deadly force threshold: (1) the officer must believe the individual would cause death or bodily injury to others OR deadly force is authorized, AND (2) the officer must be TRAINED in the technique. The training requirement is unique to Nebraska's carotid restraint provision and does not appear in most other states' chokehold statutes.

KEY DISTINCTIONS IN NEBRASKA'S FRAMEWORK:

- Nebraska treats respiratory chokeholds and vascular carotid restraints as SEPARATE techniques with SEPARATE standards — unlike Minnesota (which defines both under one complete ban) or Missouri (which addresses only respiratory holds).
- The carotid restraint is subject to an additional TRAINING REQUIREMENT — an officer who has not been trained in the carotid hold cannot use it even when deadly force is otherwise authorized.
- Both techniques carry life-safety exceptions — unlike California, which has no exceptions for either.
- Officers must complete a report documenting any use of either technique.

- LB51 passed the Nebraska Unicameral 41-1, reflecting strong bipartisan support.

Neb. Rev. Stat. § 81-1414.17 — Duty to Intervene Against Excessive Force

LB51 also required each law enforcement agency to adopt a policy mandating that officers intervene when they reasonably believe another officer is engaged in the use of excessive force. This duty-to-intervene requirement creates a peer accountability mechanism for force that exceeds what Nebraska law authorizes.

Complementary to the chokehold prohibition, this provision means that if an officer observes another officer using a prohibited neck restraint outside of its authorized circumstances, they are obligated to intervene — not merely permitted to do so.

FIRST RESPONDERS VS. LAW ENFORCEMENT:

Nebraska's § 81-1414.16 applies ONLY to law enforcement officers (police officers, peace officers). EMS and fire personnel are governed exclusively by the civilian self-defense framework under § 28-1409. A Nebraska paramedic defending their life against a violent attack is evaluated only under the civilian standard — not the police neck restraint statute. There is no statutory prohibition on civilian first responders using physical defensive techniques in lawful self-defense. The training requirement for carotid restraints applies only to law enforcement officers under § 81-1414.16.

PART V: APPLYING VEST PRINCIPLES UNDER NEBRASKA LAW

Nebraska's self-defense framework has several distinct features that shape how VEST principles should be taught and applied in this state. The duty to retreat in public (with the 'complete safety' standard), the unique workplace extension of the Castle Doctrine, and Nebraska's dual-track chokehold/carotid restraint framework all require specific attention in VEST training delivered in Nebraska.

1. You Have the Legal Right to Defend Yourself — Know Where You Are

Nebraska's civilian self-defense statute (§ 28-1409) gives every first responder the right to use force — including deadly force when the threshold is met — to defend themselves from imminent unlawful force. The critical distinction in Nebraska is LOCATION: your legal position differs significantly depending on whether you are inside your dwelling or workplace (Castle Doctrine protects you) or in a public space (duty-to-retreat considerations apply). VEST training must help Nebraska providers understand this geographic framework and how it affects their legal position at every type of scene.

2. Your Station May Be Your Castle — Workplace Castle Doctrine

Nebraska's Castle Doctrine explicitly extends to the place of work — and this is a meaningful legal protection that most states do not provide. A fire station, EMS base, or ambulance bay is potentially a 'place of work' under Neb. Rev. Stat. § 28-1409(3)(i). When attacked at your station or base, you have no duty to retreat — the same no-retreat protection as if you were attacked in your home.

VEST training covering station security, controlled access, and scene establishment directly supports the factual record for this protection. Important: the co-worker exception — if your attacker is also a colleague at your same workplace — removes this protection and may restore the retreat obligation.

3. The 'Complete Safety' Standard Changes Everything

Nebraska's retreat obligation only activates when retreat can be accomplished with COMPLETE safety. This is an important protection that trainers must teach accurately. The duty to retreat does NOT require you to take a chance — if retreating would expose you to any risk of harm, the duty does not apply. A paramedic cornered by an agitated patient, cut off from exit routes, or facing a rapid-escalation attack scenario is in a position where retreat is not possible with complete safety — and force is immediately necessary without any retreat requirement. VEST Level I scenario training directly prepares providers to document and articulate why retreat was not available with complete safety.

4. Situational Awareness Is Your Legal Foundation

Because Nebraska allows juries to consider whether complete safe retreat was available, situational awareness documentation becomes a legal asset. Pre-incident threat recognition, communication of concern to dispatch or supervisors, positioning for maximum exit options, and verbal de-escalation attempts before force was deployed all create an evidentiary record that demonstrates: (a) you were not the aggressor, (b) you attempted to resolve the situation without force, and (c) force only became necessary when retreat was no longer safe or available. VEST Level I curriculum — threat recognition, color code awareness, verbal intervention — is legally foundational in Nebraska.

5. De-Escalation Is Both Ethical and Legally Strategic

Nebraska's 'immediately necessary on the present occasion' standard is a high bar that requires genuine necessity — not precaution, not convenience, not preference. VEST's graduated force continuum framework aligns precisely with this requirement. A Nebraska provider who exhausted verbal options before using force is in the strongest legal position because the documentation of de-escalation attempts demonstrates that force became 'immediately necessary' only after alternatives failed. Trainers should consistently reinforce: every step on the force continuum before physical force is also evidence in your legal defense.

6. Protect Your Partner — Nebraska Law Supports You

Neb. Rev. Stat. § 28-1410 explicitly authorizes force to protect a third person under the same standards as self-defense, with an important bonus: even if YOU would normally have a duty to retreat in public, that duty is relaxed when protecting another person who cannot safely retreat. A Nebraska first responder who intervenes to protect a partner from violent attack has direct statutory authority — and potentially broader authority than if defending only themselves in a public space. VEST Level III partner defense training is backed by this provision.

7. Document Thoroughly — Nebraska's Framework Demands It

Nebraska does not have an explicit civil immunity statute equivalent to South Dakota's § 22-18-4.8 or Texas's § 83.001. Documentation is therefore the primary instrument for protecting first responders in post-incident review, criminal proceedings, and civil litigation. PCR narratives should establish: the nature and immediacy of the threat, why retreat was not safe or available with complete safety, all pre-force de-escalation steps taken, the specific actions that made force immediately necessary, and the moment force ended when the threat was neutralized. The more complete the record, the stronger the § 28-1409 justification.

8. Understand the Dual-Track Chokehold Framework for Joint Training

Nebraska's § 81-1414.16 creates separate legal standards for chokeholds (deadly force only) and carotid restraints (deadly force OR belief of imminent harm to others, AND training required). When VEST delivers joint agency training with Nebraska law enforcement partners, this dual-track framework must be addressed clearly: officers face different standards for these two techniques, and the training requirement for carotid restraints creates an additional gatekeeping mechanism. Civilian first responders are not bound by § 81-1414.16 in personal self-defense situations — their use of any physical defensive technique is evaluated only under § 28-1409's civilian standard.

9. Know When Force Ends — Nebraska Requires Proportionality Throughout

Neb. Rev. Stat. § 28-1409 limits force to what is 'immediately necessary for the purpose of protecting' against the unlawful force. Once a threat is neutralized — a subject is restrained, compliant, or no longer physically capable of harm — the 'immediately necessary' standard is no longer satisfied. Continuing force after this point is not protected under § 28-1409 and may constitute criminal assault. VEST curriculum's continuous threat reassessment framework is both operationally and legally necessary in Nebraska. The moment a threat is neutralized, force must stop.

LEGAL DISCLAIMER

This document is produced by VEST First Responder LLC for educational and trainer development purposes only. It does not constitute legal advice. Nebraska Revised Statutes are subject to legislative amendment — including active proposals to expand Stand Your Ground protections that have been introduced but not enacted as of this document's preparation — and individual incidents are always fact-specific. VEST Certified Trainers and their agencies should consult with a licensed attorney, their medical director, and agency legal counsel before developing or delivering formal use-of-force or defensive tactics policies. Reference statutes as of the 2024-2025 Nebraska Revised Statutes and 2021 LB51.

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