

- VEST FIRST RESPONDER -

HELP FOR HEROES

VIRGINIA

Self-Defense Law Reference Guide

Stand Your Ground (Case Law) | Castle Doctrine | No Duty to Retreat | First Responder Protections | Police Use of Force

CERTIFIED TRAINER SUPPLEMENTAL DOCUMENT

Intended exclusively for VEST Certified Trainers. Not a substitute for legal counsel.

Virginia is an effective Stand Your Ground state through case law rather than statute. Virginia courts have consistently held that an unprovoked person has no legal duty to retreat before using justified force in self-defense - including in public spaces. Virginia's self-defense framework is primarily common law-based, supplemented by Code of Virginia provisions on specific offenses. Virginia's Castle Doctrine applies to the dwelling, and case law extends the no-retreat principle to the home, vehicle, and place of business. Virginia's assault statute (Code of Virginia S. 18.2-57) provides significant enhancements when the victim is a firefighter or emergency medical services personnel - converting what would be a misdemeanor into a Class 6 Felony with mandatory minimum provisions.

LEGAL SOURCE	SUBJECT MATTER
Virginia Common Law	Self-Defense Standard - No Duty to Retreat (Case Law)
Foote v. Commonwealth (1993)	Virginia Supreme Court - No Duty to Retreat in Unprovoked Attack
Va. Code S. 18.2-51.1	Malicious Bodily Injury to Law Enforcement/Fire/EMS - Class 3 Felony
Va. Code S. 18.2-57(C)	Assault and Battery Against Firefighter/Volunteer Firefighter/EMS - Class 6 Felony
Va. Code S. 18.2-57	Mandatory 30-Day Minimum for Assault on Protected Persons
Virginia POST Standards	Police Use of Force - Neck Restraint Restrictions

PART I: THE VIRGINIA SELF-DEFENSE FRAMEWORK

Common Law Self-Defense - No Duty to Retreat

"When one is attacked in his home or in the immediate premises and curtilage thereof, he need not retreat but may use all necessary and reasonable force to defend himself from attack." - Virginia case law (collected)

Virginia's self-defense law is primarily common law-based, not statutory. The Virginia Supreme Court and Court of Appeals have established through decades of precedent that: (1) a person who is not at fault in provoking a confrontation has no duty to retreat before using justified force in self-defense; (2) the force used must be proportionate to the threat; (3) the person must reasonably believe they are in imminent danger of death or serious bodily harm; and (4) retreat is required only if the person WAS at fault in provoking the confrontation.

TWO TYPES OF SELF-DEFENSE IN VIRGINIA:

- **JUSTIFIABLE** self-defense: When the defendant was without any fault in provoking the difficulty. NO duty to retreat. Full acquittal if justified.
- **EXCUSABLE** self-defense: When the defendant was at some fault in creating the situation. MAY have a duty to retreat before using force if retreat was safely available.
- The distinction matters enormously: a first responder who is simply attacked while on duty - without any provocative conduct - has NO duty to retreat under Virginia's justifiable self-defense framework.

FOR FIRST RESPONDERS - JUSTIFIABLE SELF-DEFENSE APPLIES:

An EMS provider or firefighter attacked while performing official duties has not provoked the confrontation. Their conduct - treating patients, responding to emergencies, performing lawful duties - cannot constitute provocation under Virginia law. Therefore, any first responder attacked while on duty falls squarely within Virginia's justifiable self-defense framework: no duty to retreat before using proportionate force to defend against imminent deadly force or serious bodily harm.

Castle Doctrine - Dwelling and Curtilage

Virginia recognizes the Castle Doctrine through common law. A person within their dwelling and its curtilage (the area immediately surrounding the home) has no duty to retreat before using force in defense against an unlawful intruder. Virginia case law has extended Castle Doctrine principles to vehicles and places of business through the general no-retreat rule in unprovoked attacks - though the clearest statutory and case law protection is for the dwelling itself.

PART II: DUTY TO RETREAT - VIRGINIA'S POSITION

Virginia has NO duty to retreat in unprovoked attacks - established through case law as part of the justifiable self-defense framework. However, a person who is at some fault in provoking the confrontation may face a retreat obligation before using force.

- UNPROVOKED ATTACK: No duty to retreat - justifiable self-defense applies.
- PROVOKED CONFRONTATION: Duty to retreat before using force - excusable self-defense applies.
- DWELLING AND CURTILAGE: No duty to retreat in the home or its immediate surrounding area.
- PUBLIC SPACES: No duty to retreat in unprovoked attacks through common law case law.
- No explicit statutory Stand Your Ground provision - the rule exists through judicial interpretation.
- No explicit statutory civil immunity provision - documentation is especially important.

PRACTICAL IMPACT FOR FIRST RESPONDERS:

Virginia first responders who are attacked without provocation while on duty have no duty to retreat under Virginia's justifiable self-defense framework. The absence of statutory codification means documentation is critical - PCR narratives, incident reports, and partner statements that establish the unprovoked nature of the attack are the legal foundation of any Virginia self-defense claim.

PART III: FIRST RESPONDER ASSAULT - ENHANCED CRIMINAL PROTECTIONS**Va. Code S. 18.2-57(C) - Assault and Battery Against Firefighter or EMS Personnel**

"If any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is... a firefighter... or a volunteer firefighter or any emergency medical services personnel..., such person is guilty of a Class 6 felony, and upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months." - Va. Code S. 18.2-57(C)

Virginia Code S. 18.2-57(C) converts what would otherwise be a Class 1 misdemeanor assault into a CLASS 6 FELONY when the victim is a firefighter, volunteer firefighter, or emergency medical services personnel engaged in their official duties. Class 6 Felony carries 1-5 years in prison. The mandatory minimum is SIX MONTHS - meaning no early release for the first six months. This is among the strongest mandatory minimum provisions for first-responder assault in any state in this series.

- Class 6 Felony - 1 to 5 years imprisonment.
- Mandatory minimum 6 months: no suspended sentence, no early release for the first 6 months.
- Covers firefighters, VOLUNTEER firefighters, and ALL emergency medical services personnel.
- 'Knowing or having reason to know' - uniform, marked vehicle, or visible identification satisfies this standard.

Va. Code S. 18.2-51.1 - Malicious Bodily Injury to Law Enforcement/Fire/EMS

When the assault causes actual bodily injury, the offense escalates significantly. Under Va. Code S. 18.2-51.1, maliciously causing bodily injury to a law enforcement officer, firefighter, or EMS personnel - or a person providing emergency medical treatment - using any means causing bodily injury is a Class 3 Felony, carrying 5-20 years imprisonment. If the injury is caused by a weapon capable of causing death or great bodily injury, the mandatory minimum is 2 years.

- Malicious bodily injury to firefighter/EMS with weapon: Class 3 Felony, mandatory minimum 2 years.
- Maximum: 20 years imprisonment.
- Significantly elevated above the standard felony assault provisions.

VIRGINIA'S TWO-TIER ESCALATION FRAMEWORK:

Virginia's assault-of-first-responder framework creates two critical escalation tiers: (1) any assault (even without injury) against a firefighter or EMS provider is automatically a Class 6 Felony with mandatory 6-month minimum; (2) any malicious assault causing bodily injury escalates to a Class 3 Felony with 2-year mandatory minimum and up to 20 years maximum. Combined, these provisions create serious, mandatory criminal consequences at every level of attack on Virginia first responders.

PART IV: POLICE USE OF FORCE & NECK RESTRAINT FRAMEWORK

Virginia enacted significant police reform through the Virginia PEACE Act (2020) and related legislation. Virginia does not have a single standalone chokehold ban statute equivalent to New York's Eric Garner Act or Delaware's HB 350, but Virginia POST standards restrict neck restraints significantly.

- Virginia PEACE Act (2020): Comprehensive police accountability legislation addressing use of force standards statewide.
- Virginia Department of Criminal Justice Services (DCJS) model policy: Restricts neck restraints to deadly force circumstances.
- No standalone statutory chokehold felony offense equivalent to Delaware, New York, or Maryland.
- Individual agency policies may impose additional restrictions.

FIRST RESPONDERS VS. LAW ENFORCEMENT:

Virginia's law enforcement use-of-force standards do not apply to civilian EMS and fire personnel in personal self-defense. A Virginia EMS provider or firefighter defending their life is evaluated under Virginia common law self-defense. There is no statutory restriction on civilian Virginia first responders using any defensive technique in genuine life-safety self-defense.

PART V: APPLYING VEST PRINCIPLES UNDER VIRGINIA LAW**1. You Are Not the Aggressor - Justifiable Self-Defense Applies**

A first responder attacked while performing official duties has not provoked the confrontation. Virginia's justifiable self-defense framework - no duty to retreat, no fault in provoking - applies to every on-duty assault scenario. VEST training reinforces this right through the graduated force continuum and professional conduct at all scenes.

2. Documentation Is Your Civil Protection

Virginia has no explicit statutory civil immunity provision for justified force. Documentation - PCR narratives, incident reports, partner statements, dispatch logs - creates the evidentiary foundation for demonstrating that force was justified and that the attack was unprovoked. This documentation is essential for both criminal defense and civil litigation protection.

3. The Mandatory 6-Month Minimum Is a Real Deterrent

Va. Code S. 18.2-57(C)'s mandatory 6-month minimum for any assault on a Virginia first responder is one of the stronger mandatory provision frameworks in this series. VEST trainers should communicate this legal reality clearly - attackers face mandatory prison time with no possibility of early release for the first six months.

4. De-Escalation Establishes the Unprovoked Nature of Any Attack

Virginia's distinction between justifiable and excusable self-defense turns critically on whether the defender provoked the confrontation. VEST Level I de-escalation curriculum creates the evidentiary record that the first responder was not the aggressor and did not provoke the encounter - preserving the full justifiable self-defense protection.

5. Partner Defense Is Covered Under Common Law

Virginia common law self-defense extends to defense of others under the same unprovoked-attack framework. VEST Level III partner defense training is directly grounded in this authority. When defending a partner who is attacked without provocation, the full justifiable self-defense framework applies.

LEGAL DISCLAIMER

This document is produced by VEST First Responder LLC for educational and trainer development purposes only. It does not constitute legal advice. Virginia Code Title 18.2; Virginia Common Law Self-Defense; Virginia PEACE Act (2020) are subject to legislative amendment, 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.

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