


1


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SUMMARY

The law of self-defense is changing rapidly in North Carolina.


Self-defense cases are best seen as a continuum:

Castle Doctrine → Perfect Self-Defense → Imperfect Self-Defense → Other Defenses.

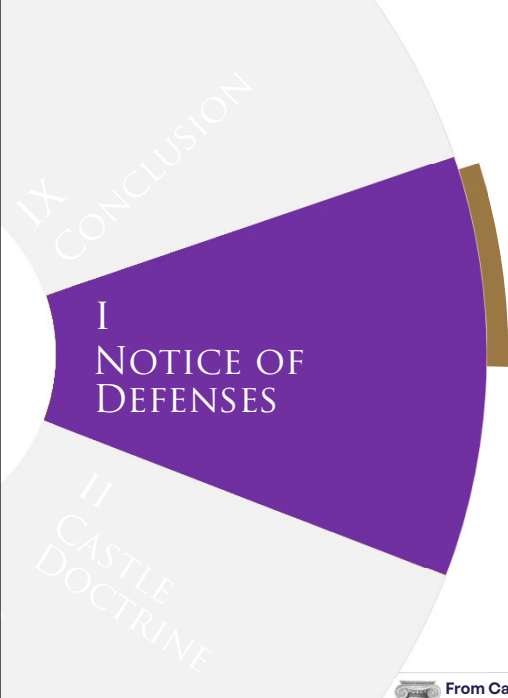
You must know three statutes: N.C. Gen. Stat. § 14-51.2 (**Castle Doctrine**); § 51.3 (**Perfect Self-Defense**); and § 51.4 (**Disqualifications**). The Castle Doctrine applies to an occupant's home, vehicle, and workplace. When applicable, it creates a powerful rebuttable presumption with narrow exceptions. You must also know the common law of **imperfect self-defense**, which remains intact by meeting the first two parts of the well-known test under *State v. Norris*,¹ and other defenses.

Specific areas in each statute and the common law are examined in this presentation.

¹(1) The Defendant believed it was necessary to kill to save himself from death or great bodily harm; (2) His belief was reasonable; (3) He was not the aggressor; and (4) He did not use excessive force. *State v. Norris*, 303 N.C. 526, 530 (1981).

 **From Castle Walls to Street Confrontations**
North Carolina Self-Defense in 2026

2




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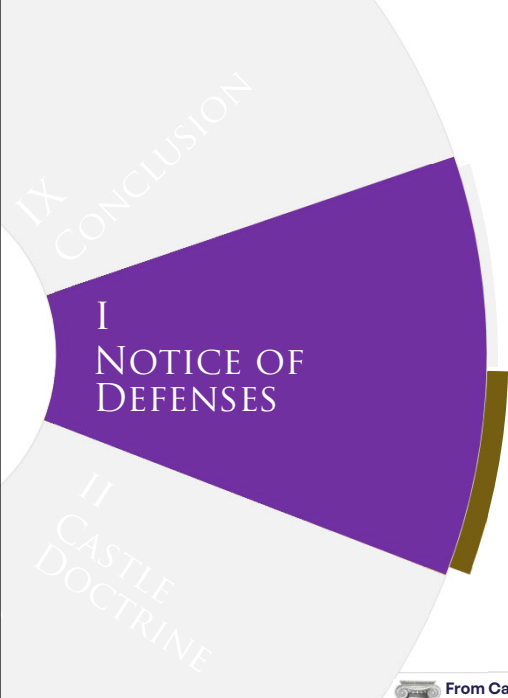
A. Deadline

If either the State or defense serves discovery, upon motion of the State, the defense must give notice of certain defenses, including self-defense, **within 20 working days after the case is set for trial** or such other time set by the Court.²

As relevant here, counsel should apply for a **Scheduling Order** under N.C. Gen. Stat. § 7A-49.4(b).

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North Carolina Self-Defense in 2026


3




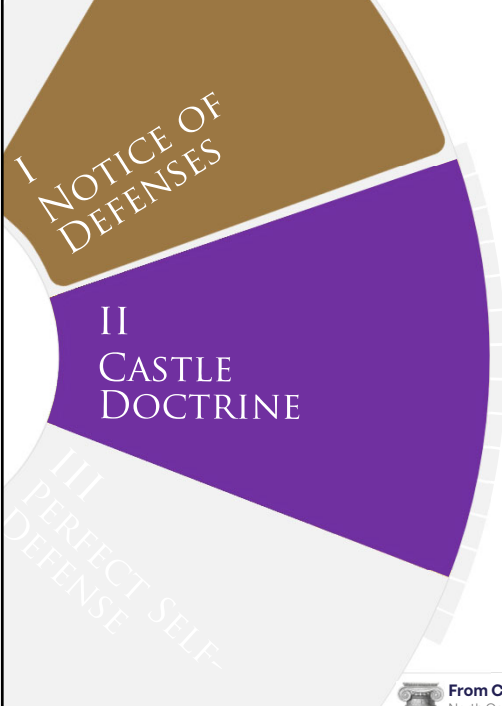
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B. Otherwise, May Lose Defense

Failure to give the notice within the required time may result in the Court refusing to give jury instructions on self-defense as a sanction under N.C. Gen. Stat. § 15A-910(a)(3).³

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North Carolina Self-Defense in 2026

4


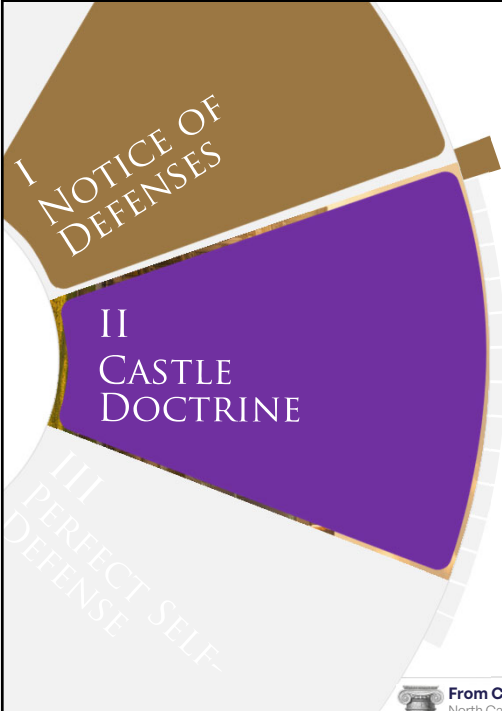



North Carolina has long recognized that a man's house, however humble, is his castle, and in his castle he is entitled to protect against invasion.

State v. Kuhns, 260 N.C. App. 281 (2018).

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5

A. Overview

While a form of self-defense, the Castle Doctrine is **broader** than perfect self-defense because, when the statute applies, the Defendant will no longer need to show certain elements (i.e., (1) having a reasonable fear of imminent death or serious harm and (2) using necessary force).⁴

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6

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B. Lawful Occupant

The Castle Doctrine applies to a “**lawful occupant**” of a home, motor vehicle, or workplace.⁵ For purposes of this paper, generally only a home is discussed although equally applicable to a vehicle or workplace.

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7

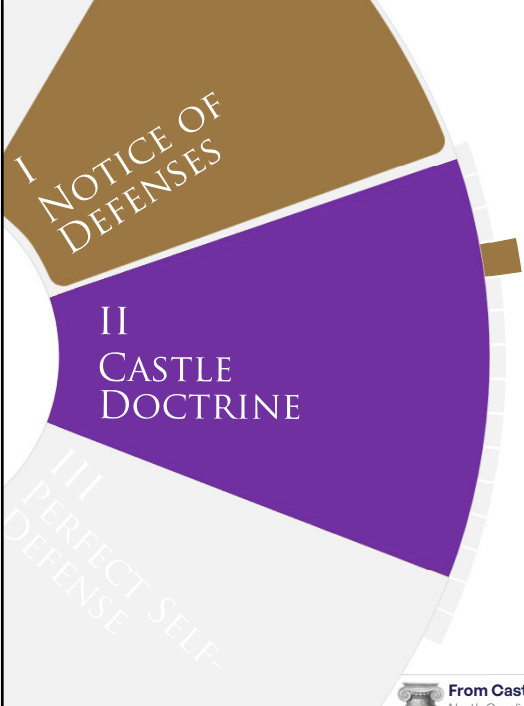
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C. Definition of Home

A building or conveyance of any kind with a roof which is designed as a temporary or permanent residence, whether mobile or immobile.⁶ Even a tent counts.⁷ The curtilage is included.⁸ The curtilage generally includes the yard around a dwelling and an area occupied by outbuildings.⁹

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8




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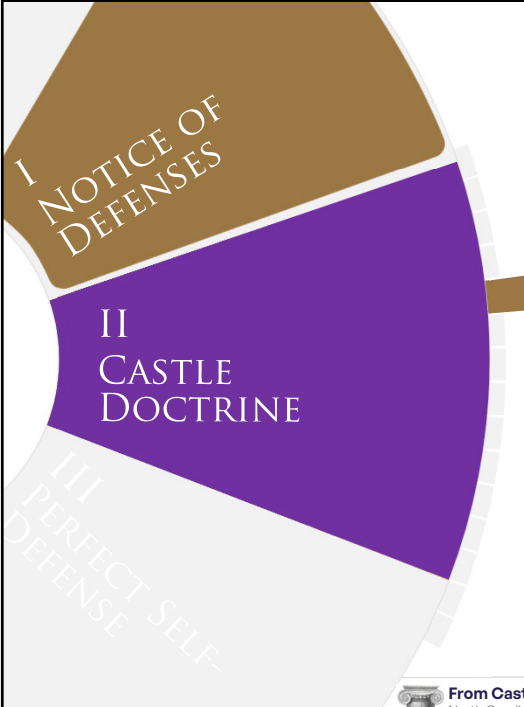
D. Presumption in Favor of Occupant

The occupant of a home is conferred a **rebuttable presumption** to have held a reasonable fear of imminent death or serious bodily harm to himself or another when using defensive force that is intended or likely to cause death or serious bodily harm to another **if both:**

1. The person against whom the defensive force was used (i) was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a home or (ii) had removed or was attempting to remove another against that person's will from the home; **and**
2. The occupant knew or had reason to believe that an unlawful and forcible entry or act was occurring or had occurred.¹⁰

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North Carolina Self-Defense in 2026


9



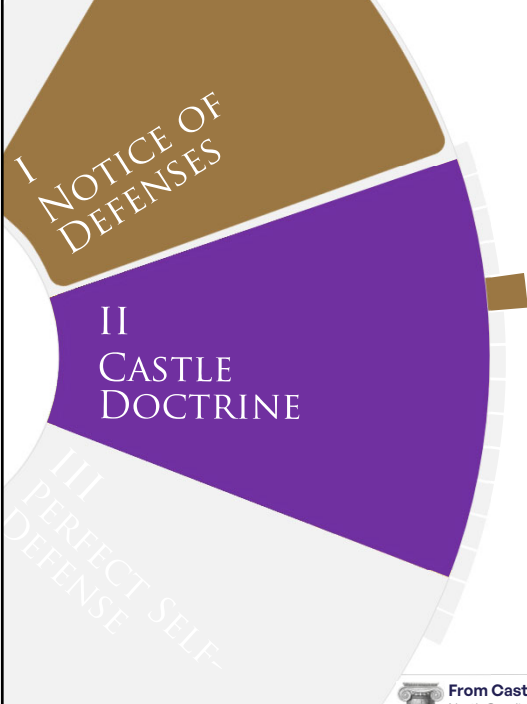
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E. Rebutting the Presumption

The State is limited in its ability to rebut the presumption conferred on the occupant. The presumption may be rebutted **only in five limited circumstances listed by statute** (i.e., (1) the other person had the right to be in the home; (2) the other person was removing his child or grandchild; (3) the occupant was engaged in, attempting to escape from, or using the home to further any criminal offense that involves the use or threat of physical force or violence against any individual; (4) the other person was a law enforcement officer or bail bondsman who enters or attempts to enter a home in the lawful performance of his duties; and (5) the other person discontinued all efforts to unlawfully and forcefully enter the home and had exited the home).¹¹

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North Carolina Self-Defense in 2026

10



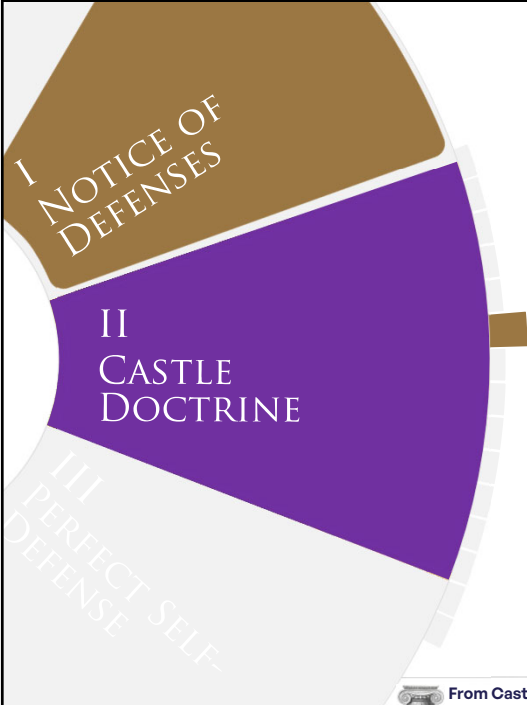
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E. Rebutting the Presumption (Cont.)

When the Castle Doctrine applies (i.e., N.C. Gen. Stat. § 14-51.2), the State **cannot** rebut the presumption by comparing the occupant's relative size or strength to the victim.¹²

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11



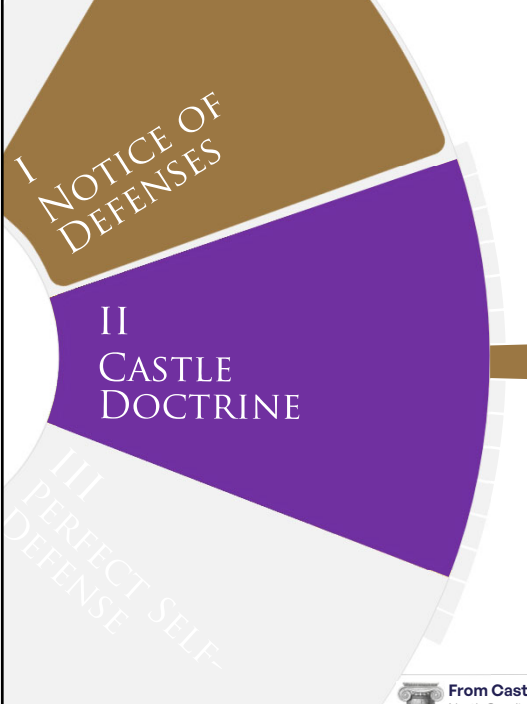
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F. Presumption Against Intruder Not Rebuttable

When the Castle Doctrine applies, a person who unlawfully entered a home or attempted to do so is presumed, **without the opportunity to rebut**, to have had the intent to commit an unlawful act involving force or violence.¹³

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North Carolina Self-Defense in 2026


12



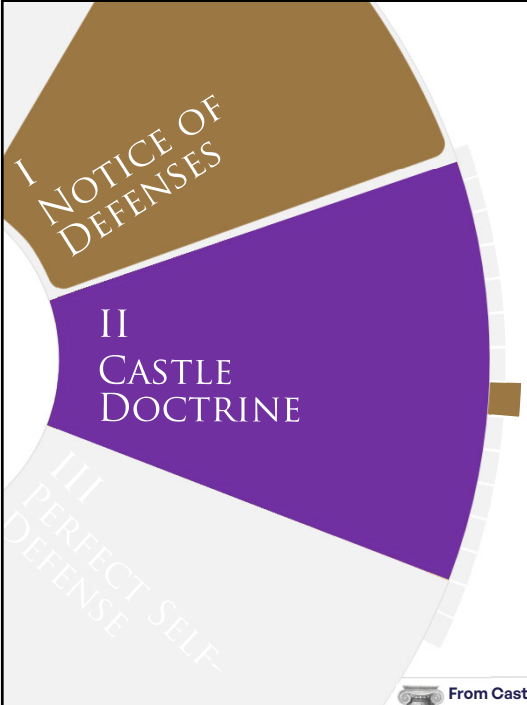
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G. No Duty to Retreat

When the Castle Doctrine applies, the occupant does **not** have a duty to retreat.¹⁴ Failure to instruct on not having a duty to retreat constitutes **reversible error** even when other features of self-defense are instructed as the Defendant is “entitled to a complete self-defense instruction.”¹⁵

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North Carolina Self-Defense in 2026


13



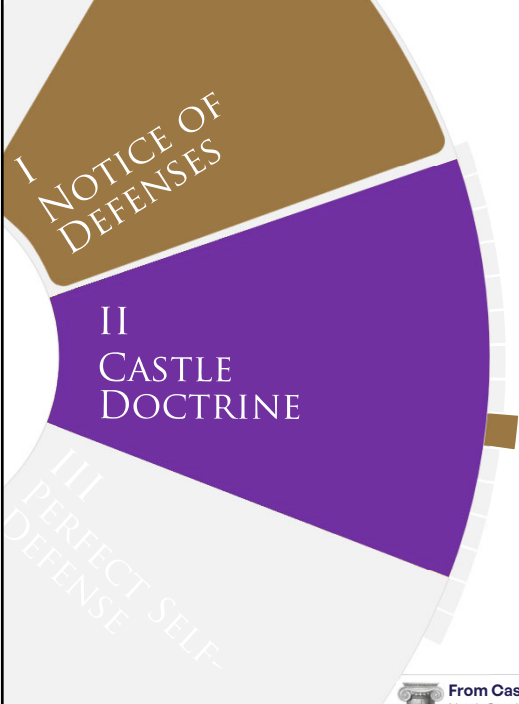
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H. Immunity

When the Castle Doctrine applies, the occupant is **immune** from criminal liability.¹⁶ However, the immunity is from a conviction rather than prosecution.¹⁷ This means there is no procedure for a pre-trial immunity ruling when there are disputed facts.¹⁸

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14



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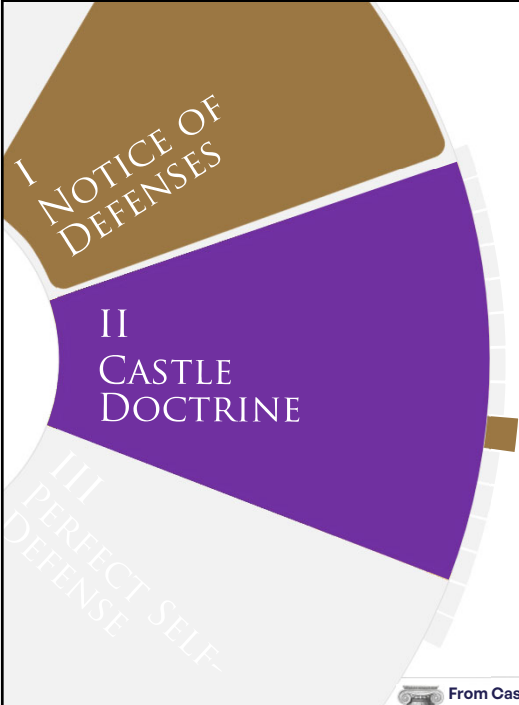
I. Force Used Away from Vehicle

In a recent unpublished decision, *State v. Williams*, the North Carolina Court of Appeals held that the Defendant was entitled to a Castle Doctrine instruction despite the defensive force occurring on the **street** rather than in the vehicle.¹⁹ The Defendant was in his car with a woman when her ex-boyfriend approached them, opened the passenger door, and punched the Defendant repeatedly.²⁰ The Defendant exited the vehicle, the two began fighting in the street, and the Defendant shot the man twice which killed him.²¹

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From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

15



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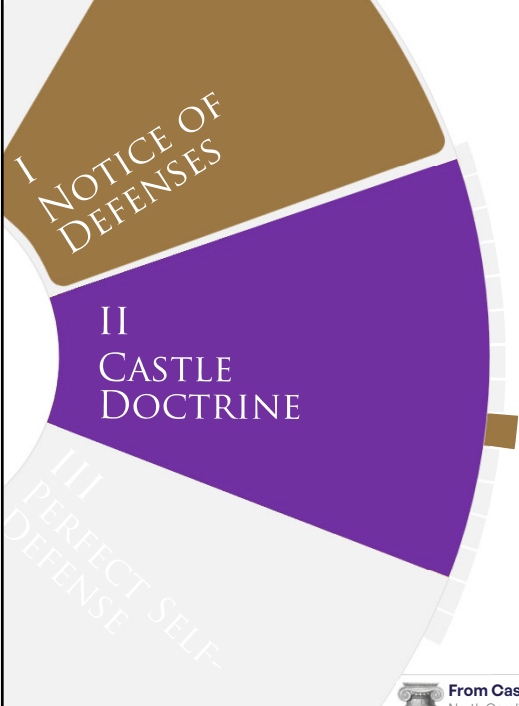
I. Force Used Away from Vehicle (Cont.)

Williams reasoned that the Defendant should receive the Castle Doctrine instruction because the legislature did not require a person to remain in his vehicle (or home) when using deadly force, noting the statute expressly contemplates force against an attacker who removed another person against her will from the vehicle (or home).²² Notably, *Williams* has been appealed to the North Carolina Supreme Court which entered a stay.²³ Although a stay often signals a reversal, it is difficult to imagine the same given the case facts and current Court composition.

The North Carolina Supreme Court heard oral arguments on February 17, 2026.

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North Carolina Self-Defense in 2026

16



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I. Force Used Away from Vehicle (Cont.)

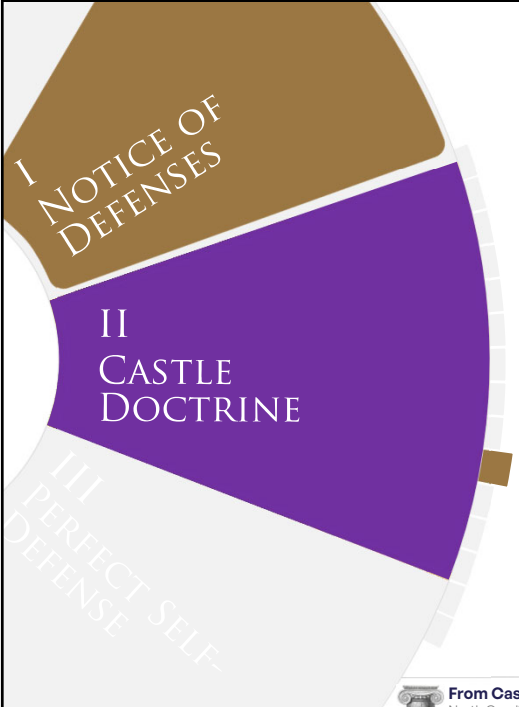
1. Initial Occupancy Required

On March 18, 2026, in *State v. Butler*, the North Carolina Court of Appeals held the Defendant was not entitled to a Castle Doctrine instruction as he was not an “occupant” of his truck at the time an assailant pulled his girlfriend out of the truck.²⁴

Unlike *Williams*, the *Butler* Defendant was not an occupant of a vehicle at the time the assailant forcibly entered or attacked the victim.²⁵ In *Butler*, the trial court gave an instruction for defense for another (i.e., found in the perfect self-defense statute in N.C. Gen. Stat. § 14-51.3) in connection with the Assault Inflicting Serious Bodily Injury charge.²⁶ However, the jury was unpersuaded as the Defendant continuously struck the man about the face and head as he laid on the ground while in and out of consciousness.²⁷

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North Carolina Self-Defense in 2026

17



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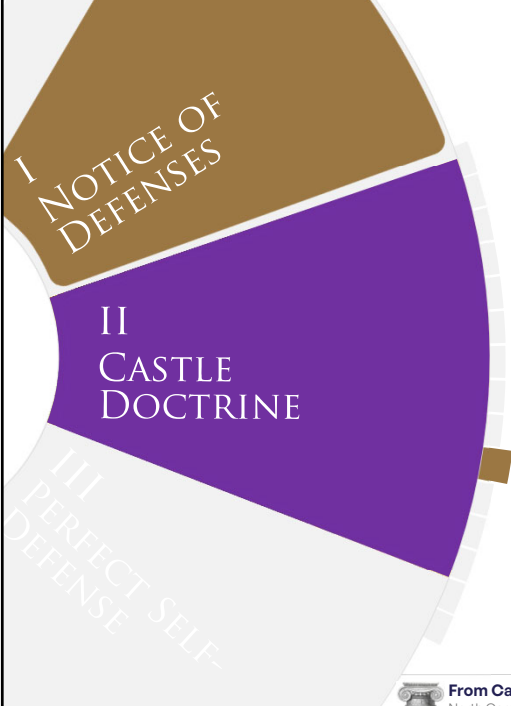
J. Force Used Away from Home

State v. Carwile, decided two weeks before *Williams*, confronted a similar issue when deadly force was used **away from the protected location** although the initial assault occurred there (i.e., in the home).²⁸ In *Carwile*, a man entered the Defendant’s home while he was there with his wife and a friend.²⁹ The man hit the Defendant in the face with a chainsaw and a sock filled with rocks.³⁰ The Defendant pushed the man out of the home, and the two began fighting outside while moving towards a car dealership.³¹ Surveillance video showed the man with his hands raised, backing up, and being located nearly 500 yards away from the home.³² The Defendant continued to walk towards the man while yelling, “Where you going boy? I’m going to kill you.”³³

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From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

18



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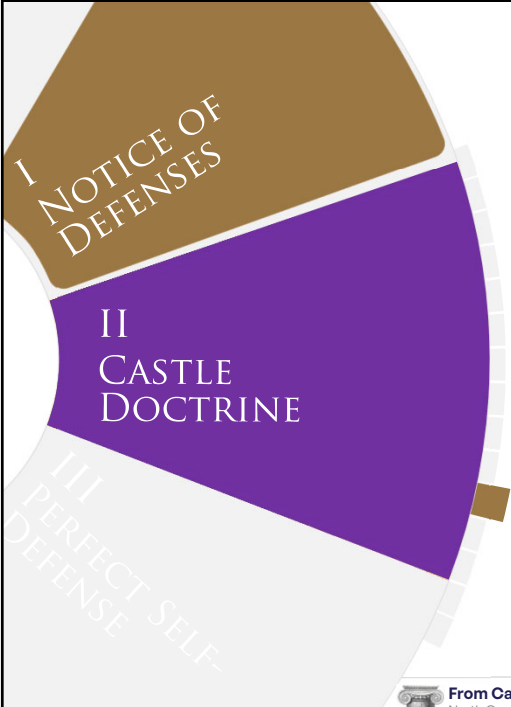
J. Force Used Away from Home (Cont.)

Ultimately, the Defendant, his wife, and friend beat the man to death.³⁴ The Court of Appeals held the trial court did not err in failing to instruct on the Castle Doctrine as the evidence, viewed in the light most favorable to the Defendant, showed the presumption had been rebutted as the man had discontinued all efforts to enter the home and actually exited the home.³⁵ Moreover, the Court viewed the Defendant as the aggressor because he continued to pursue the fight when the man was trying to leave.³⁶

The School of Government published an article seeking to harmonize the opinions of *Carwile* and *Williams*.³⁷ In short, the proposition is that the “occupancy” component of the Castle Doctrine has both temporal and spatial dimensions. An occupant, who is no longer under attack, cannot chase an intruder into an adjoining property and kill him there.³⁸

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

19



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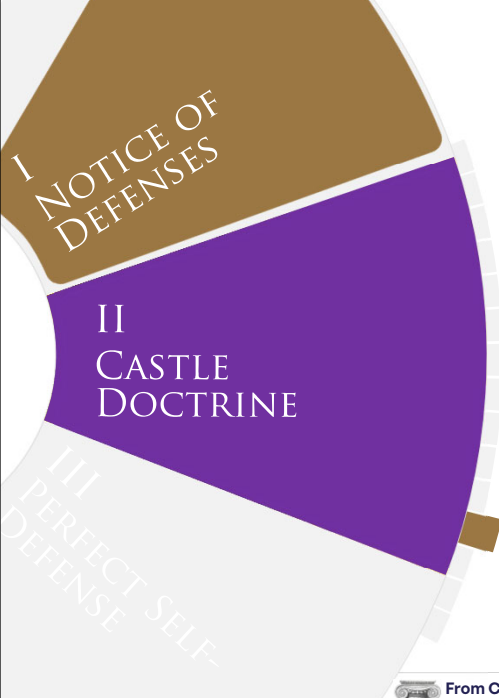
K. Warning Shot

When the occupant testifies that the shot at issue was a “warning shot,” he **cannot** receive an instruction under the Castle Doctrine under the precedent of *State v. Cook* in 2017.³⁹ However, *Cook* allowed the State to rebut the presumption of the occupant’s reasonable fear of imminent death or serious bodily harm under circumstances **outside** of N.C. Gen. Stat. § 14-51.2(c).⁴⁰ *State v. Phillips*, decided in 2024, does **not** allow the State to rebut this presumption outside of the five circumstances listed.

Counsel should make the argument that *Phillips* overruled *Cook* on the issue of a warning shot under the Castle Doctrine.


From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

20


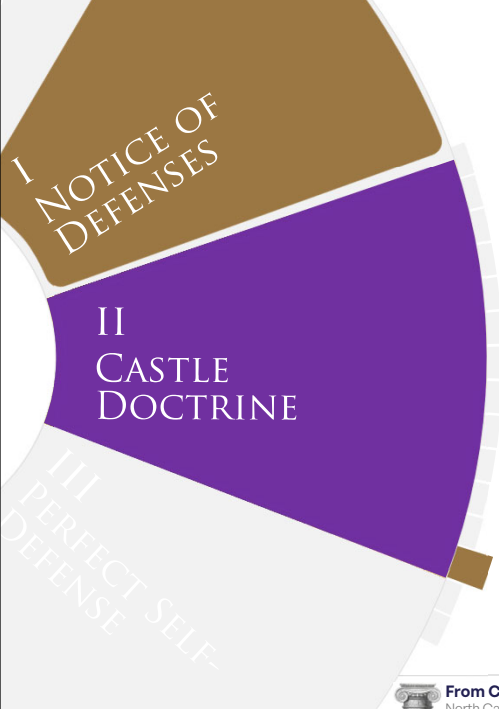



L. Jury Instructions

The Defendant is entitled to an instruction when self-defense evidence is adduced at trial.⁴¹ The Defendant is **not** required to testify to receive an instruction.⁴² To determine whether there is enough competent evidence to support an instruction, the evidence is viewed in the light most favorable to the Defendant.⁴³ Provided such evidence exists, the Court **must** provide this instruction even when there is contradictory evidence by the State or discrepancies in the Defendant's evidence.⁴⁴ When there is any evidence which raises self-defense, the Court must give an instruction.⁴⁵

 From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

21


M. Incorrect Pattern Jury Instructions

The relevant Pattern Jury Instructions are **incorrect**.⁴⁶


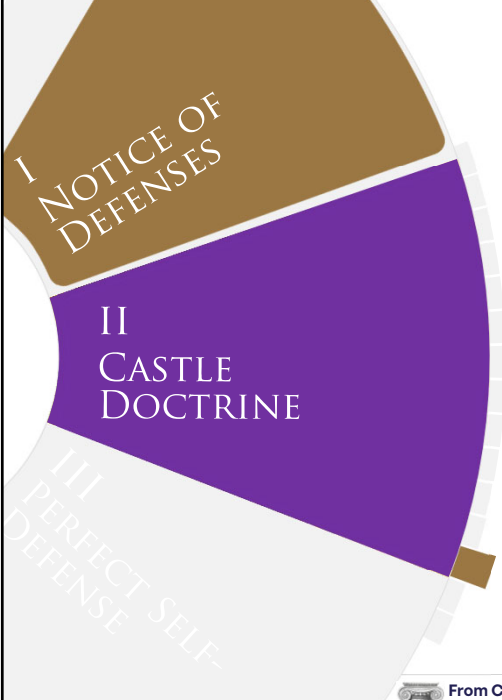
First, the current PJI provides the Defendant is not guilty of a crime under the Castle Doctrine if he killed the victim to **prevent or terminate** a forcible entry.⁴⁷ Such language uses a common law formulation of the defense of habitation which is no longer applicable.⁴⁸

Second, it requires the jury to evaluate whether the defensive force was **proportional** (i.e., was the degree of force necessary) which is also no longer applicable.⁴⁹

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 From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

22

M. Incorrect Pattern Jury Instructions (Cont.)


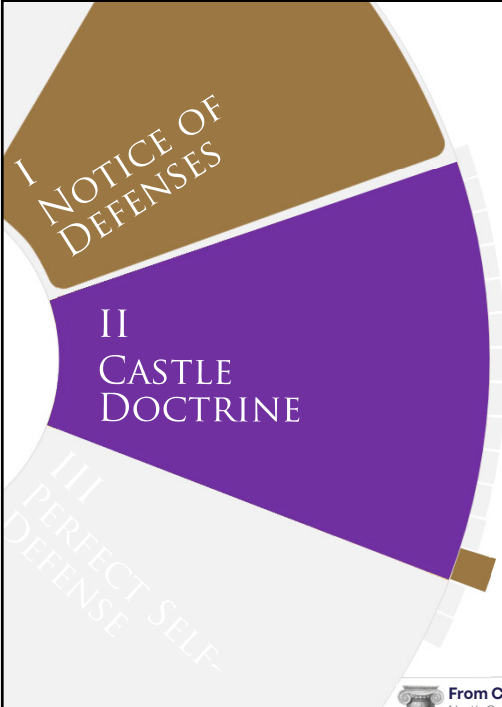
Third, it does **not** expressly limit the circumstances under which the State may rebut the presumption that the Defendant held a reasonable fear of imminent death or serious bodily harm (i.e., the five circumstances listed in N.C. Gen. Stat. § 14-51.2(c)).⁵⁰

Finally, it allows the jury to determine the “**reasonableness**” of the Defendant’s belief that an intruder intends “to commit an unlawful act involving force or violence.”

I have attached a template of a **modified** instruction in a Castle Doctrine case for your consideration. See [Exhibit A](#).

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North Carolina Self-Defense in 2026

23

M. Incorrect Pattern Jury Instructions (Cont.)

1. Plain Error to Use Current PJI

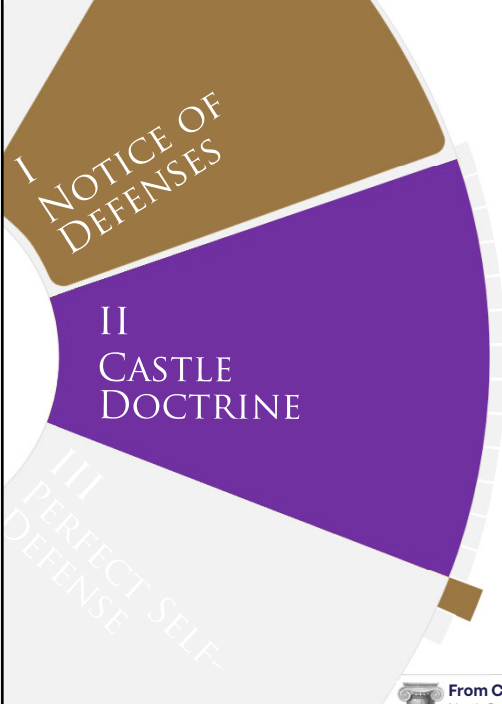
Two recent cases held **plain error** occurs when using N.C.P.I. 308.80 (Defense of Habitation, Workplace, Motor Vehicle).

On December 12, 2025, in *State v. Allison*, the North Carolina Supreme Court held the trial court committed plain error by using the PJI. In particular, *Allison* noted the PJI provided that (1) the State’s evidence could rebut the presumption outside of the five circumstances in N.C. Gen. Stat. § 14-51.2(c); and (2) the jury could determine the “reasonableness” of the Defendant’s belief in whether an intruder intended to commit an unlawful act involving force or violence.⁵²

On September 17, 2025, in *State v. Thomas*, the North Carolina Court of Appeals held the trial court committed plain error by using the PJI for similar reasons.⁵³

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24



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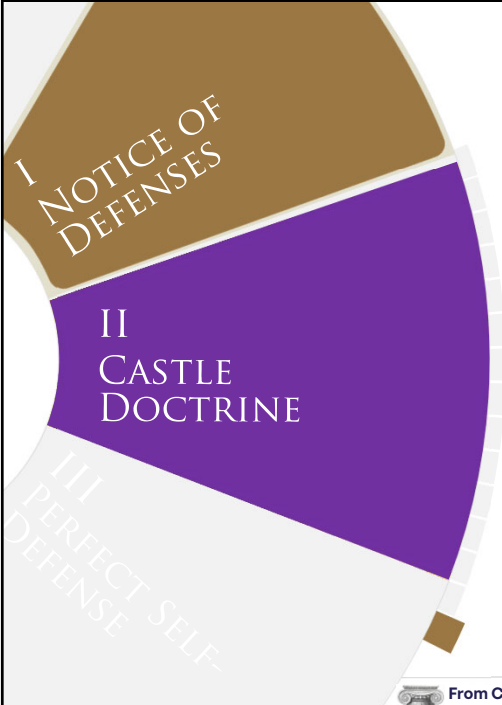
N. Agreement Waives Appellate Review

The Defendant waives **all appellate review**, including plain error, when he expressly agrees with the jury instructions.⁵⁴

Therefore, counsel should consider, *inter alia*, distinguishing the facts of your case with precedent, articulating your interpretation of the law or what it should be, and expressing your lack of authority to consent on behalf of your client.

From Castle Walls to Street Confrontations
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25







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O. Substitution After Deliberations Begin

After deliberations begin, the trial court may substitute a juror with an alternate.⁵⁵ The trial court **must** instruct the jury that they are to disregard their prior deliberations and begin anew.⁵⁶

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North Carolina Self-Defense in 2026

26

**III
PERFECT SELF-
DEFENSE**

**II
CASTLE
DOCTRINE**



**IV
DISQUALIFICATIONS FROM
CASTLE DOCTRINE AND
PERFECT SELF-DEFENSE**

The first law of nature is that of self-defense. The law of this State and elsewhere recognizes this primary impulse and inherent right.

State v. Holland, 193 N.C. 713, 718 (1927).

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

27

**III
PERFECT SELF-
DEFENSE**

**II
CASTLE
DOCTRINE**


**IV
DISQUALIFICATIONS FROM
CASTLE DOCTRINE AND
PERFECT SELF-DEFENSE**


A. Sequence

As noted above, self-defense cases are best seen as a continuum. If the Defendant is unsuccessful in asserting the Castle Doctrine, he will next justify his force under the **perfect self-defense statute** (i.e., N.C. Gen. Stat. § 14-51.3).

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North Carolina Self-Defense in 2026


28







B. Statute Supplanted Common Law

Enactment of the perfect self-defense statute in 2011 supplanted the common law on all aspects addressed by its provisions.⁵⁷ In other words, perfect self-defense under the common law is **no longer available** (i.e., *Norris* test).⁵⁸




29



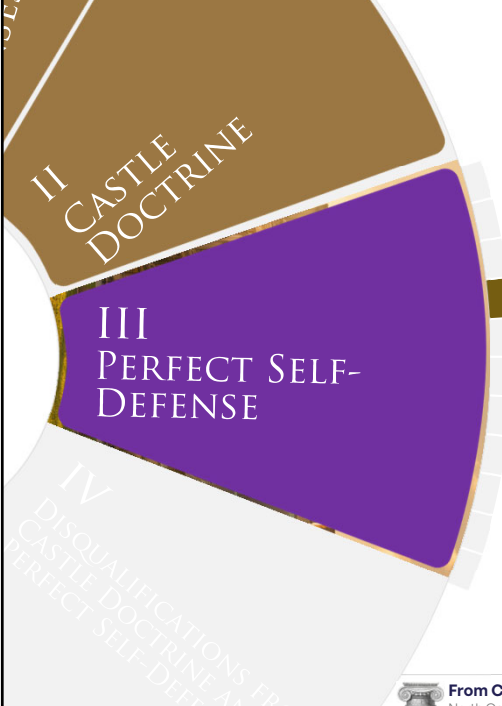


C. Non-Deadly Force

The Defendant can use non-deadly force against another person when and to the extent that he **reasonably believes** the force is necessary to defend himself or another against the other person's **imminent** use of unlawful force.⁵⁹ When confronted with non-deadly force, the Defendant may repel it blow for blow.⁶⁰



30



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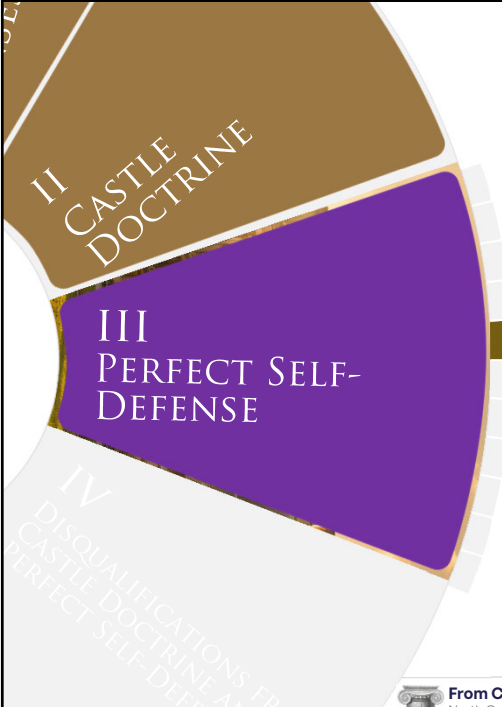
D. Deadly Force

The Defendant can use deadly force against another person if he **reasonably believes** the force is **necessary** to prevent **imminent** death or great bodily harm to himself or another.⁶¹

When using deadly force, there is **no duty to retreat** so long as the Defendant is in a place where he has the lawful right to be.⁶²

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North Carolina Self-Defense in 2026

31




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E. No Presumption

Unlike the Castle Doctrine, the Defendant is exposed to the State comparing his relative size or strength to the victim in order to dispel his belief that deadly force was necessary.⁶³

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North Carolina Self-Defense in 2026

32




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F. Immunity

When perfect self-defense applies, the Defendant is **immune** from criminal liability.⁶⁴ However, again, the immunity is from a conviction rather than prosecution.⁶⁵ When there are disputed facts surrounding application of perfect self-defense, a judge cannot evaluate the evidence to determine immunity before trial.⁶⁶

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North Carolina Self-Defense in 2026

33



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G. Warning Shot

When the Defendant testifies that the shot at issue was a “warning shot,” he **cannot** receive an instruction on perfect self-defense.⁶⁷ Additionally, he cannot receive an instruction on either voluntary or involuntary manslaughter through imperfect self-defense.⁶⁸ Our Courts reason that since the Defendant did not intend to shoot the victim, he could not have reasonably believed the shot was necessary to kill the victim.⁶⁹

Counsel may have to resort to requesting an instruction on the defense of accident, although this defense is barred if culpable negligence exists.⁷⁰

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North Carolina Self-Defense in 2026

34




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H. Flowchart

As always, the School of Government has a helpful flowchart in analyzing whether defensive force is authorized. See [Exhibit B](#).

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North Carolina Self-Defense in 2026

35




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I. Jury Instructions

Again, the Defendant is entitled to a self-defense instruction when self-defense evidence is adduced at trial.⁷¹ The Defendant is **not** required to testify to receive an instruction.⁷² To determine whether there is enough competent evidence to support an instruction, the evidence is viewed in the light most favorable to the Defendant.⁷³ Provided such evidence exists, the Court **must** provide this instruction even if there is contradictory evidence by the State or discrepancies in the Defendant's evidence.⁷⁴ When there is any evidence which raises self-defense, the Court must give an instruction.⁷⁵

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026


36







J. Agreement Waives Appellate Review

The Defendant waives **all appellate review**, including plain error, when he expressly agrees with the jury instructions.⁷⁶ Therefore, counsel should consider, *inter alia*, distinguishing the facts of your case with precedent, articulating your interpretation of the law or what it should be, and expressing your lack of authority to consent on behalf of your client.




37



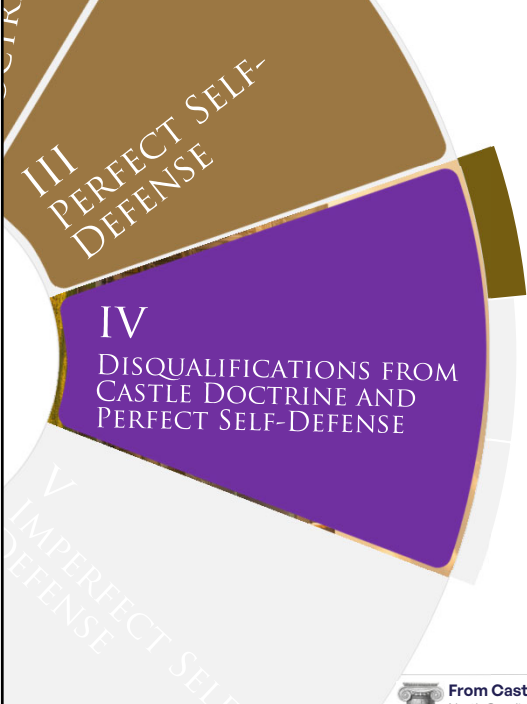


K. Substitution After Deliberations Begin

After deliberations begin, the trial court may substitute a juror with an alternate.⁷⁷ The trial court **must** instruct the jury that they are to disregard their prior deliberations and begin anew.⁷⁸



38



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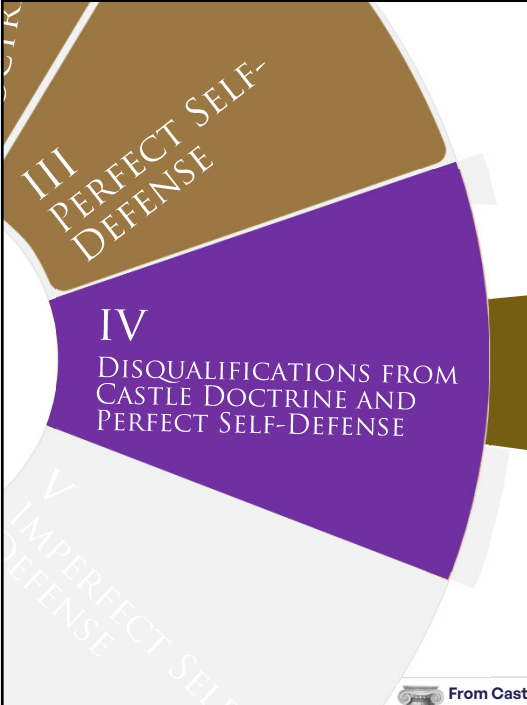
A. Overview

The Defendant can be disqualified in **two ways** from asserting the Castle Doctrine and perfect self-defense:

1. **Felony Disqualification**
2. **Aggressor Disqualification**

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North Carolina Self-Defense in 2026

39



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B. Felony Disqualification

If the Defendant was attempting, committing, or escaping after commission of a felony, then he is disqualified from the Castle Doctrine **and** perfect self-defense.⁷⁹

1. **Connecting Felony to Confrontation**
2. **The State's Burden of Beyond a Reasonable Doubt**

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

40

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B. Felony Disqualification

If the Defendant was attempting, committing, or escaping after commission of a felony, then he is disqualified from the Castle Doctrine **and** perfect self-defense.⁷⁹

1. Connecting Felony to Confrontation

However, the **State** must prove an “**immediate causal nexus**” between the Defendant’s disqualifying conduct and the confrontation in which the Defendant used force.⁸⁰ The **State** must introduce evidence that “**but for**” the Defendant’s disqualifying conduct, the confrontation would not have occurred.⁸¹

Continued on Next Slide.

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

41

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B. Felony Disqualification

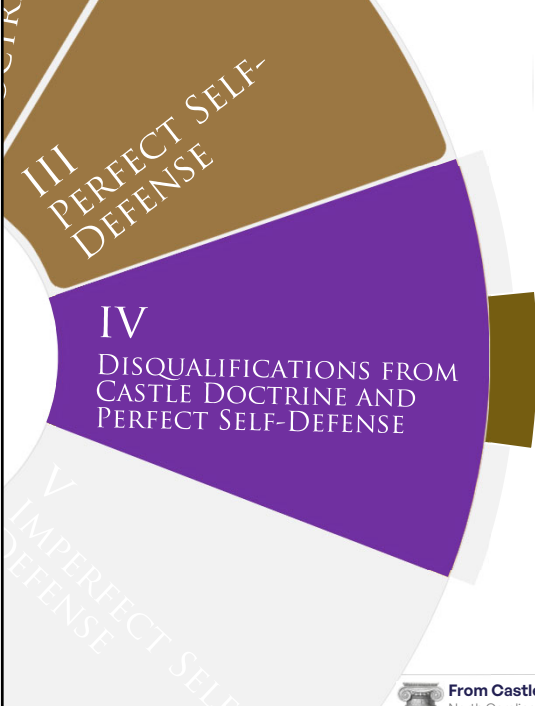
1. Connecting Felony to Confrontation (Cont.)


a. Rationale: without a causal nexus requirement, a literal reading of the statute produces absurd results. For example, a woman in possession of a felony amount of marijuana in her pocket could not lawfully defend herself against an abusive ex-boyfriend who began hitting her for reasons unrelated to the drugs.⁸² Moreover, an individual convicted of a felony decades ago who kept an antique rifle in his attic could not lawfully defend himself, with or without that firearm, against an armed intruder who broke into his home.⁸³

b. But Causal Nexus Can Occur After Defensive Force: On April 1, 2026, in *State v. Cole*, the North Carolina Court of Appeals held that the Defendant’s commission of a felony **after** his use of purported defensive force allowed the trial court to instruct the jury on felony disqualification. *Cole* disagreed that the “but for” test created a temporal requirement, reasoning that the North Carolina Supreme Court, in *State v. McLymore*, allowed this instruction for a felony that “**immediately followed**” the confrontation during which he used deadly force” (i.e., in *McLymore*, the Defendant committed a felony by stealing the victim’s car after shooting him).⁸⁵

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

42






B. Felony Disqualification

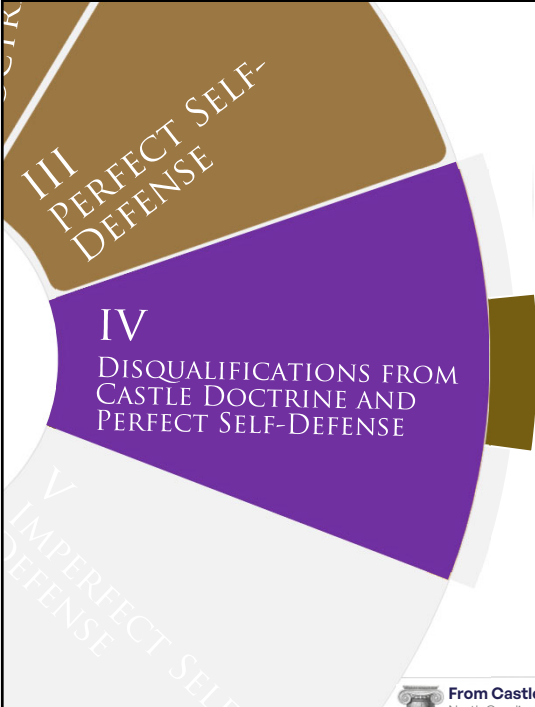
1. Connecting Felony to Confrontation (Cont.)


Reconciling *Cole* and *McLymore* with the “but for” test requires the felony to “**immediately follow**” the confrontation where deadly force was used.

One prominent legal scholar believes *Cole* may rely on the “**continuous transaction**” doctrine to reach its result.⁸⁶



43






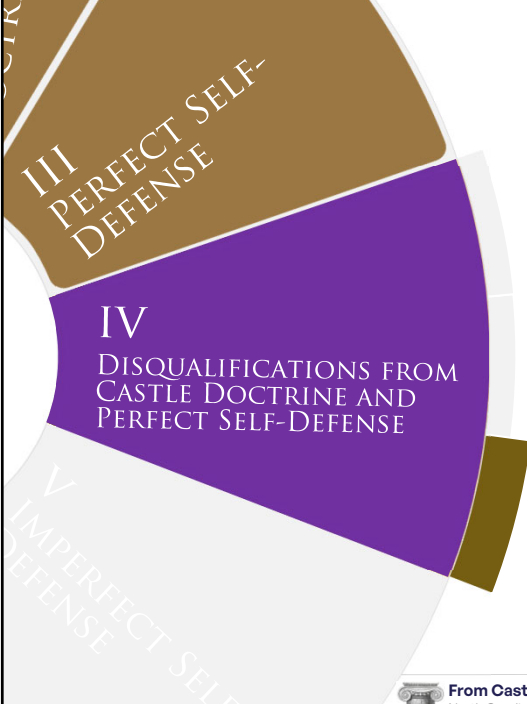
B. Felony Disqualification


2. The State’s Burden of Beyond a Reasonable Doubt

Counsel should always request the Castle Doctrine instruction when there is evidence of self-defense. Whether the Defendant is disqualified from the Castle Doctrine is a **jury question** for which the State carries the burden of **beyond a reasonable doubt**.⁸⁷



44






C. Aggressor Disqualification

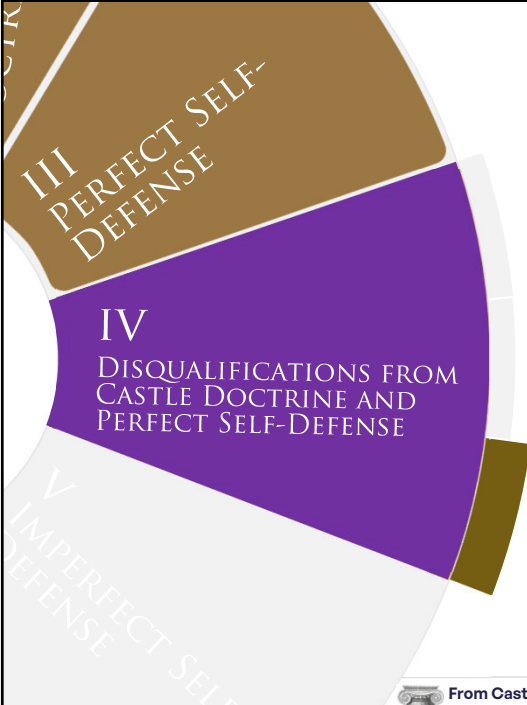
If the Defendant “initially provokes the use of force” against himself, then he is **disqualified** from the Castle Doctrine and perfect self-defense.⁸⁸ This disqualification is known as the Aggressor Doctrine.⁸⁹


1. Definition

2. Exception



45






C. Aggressor Disqualification

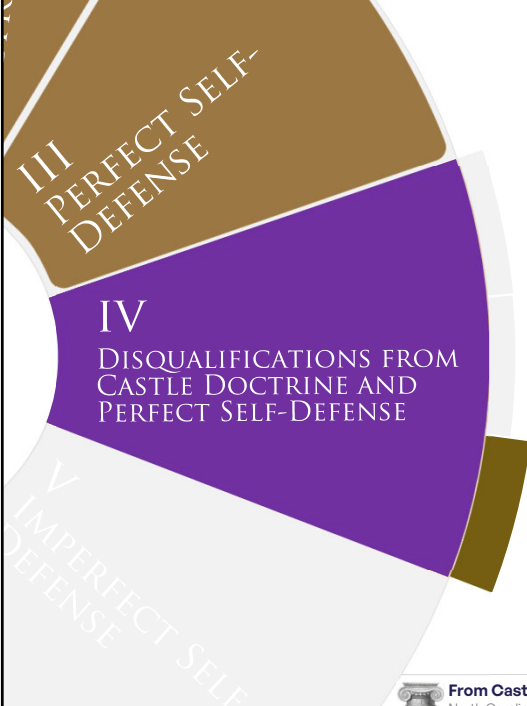
If the Defendant “initially provokes the use of force” against himself, then he is **disqualified** from the Castle Doctrine and perfect self-defense.⁸⁸ This disqualification is known as the Aggressor Doctrine.⁸⁹

1. Definition

A person is the **aggressor** if he “aggressively and willingly enters into a fight without legal excuse or provocation.”⁹⁰ Additionally, even a person who did not instigate a fight may still be the aggressor if he continues to pursue a fight that the other person is trying to leave.⁹¹



46




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C. Aggressor Disqualification

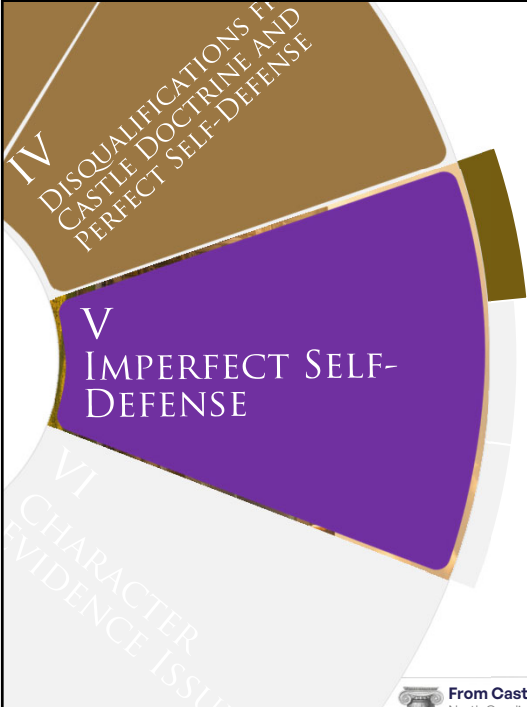
2. Exception

An aggressor is not disqualified if **either**:

- a. The force used by the provoked person is so serious that the defending person **reasonably believes** that he was in **imminent danger of death or serious bodily harm**, the defending person had **no reasonable means to retreat**, and the use of force which is likely to cause death or serious bodily harm to the provoked person was the **only way to escape** the danger; **or**
- b. The defending person withdraws, in good faith, from physical contact with the provoked person and indicates clearly that he desires to withdraw and terminate the use of force, but the provoked person continues or resumes the use of force.⁹²

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North Carolina Self-Defense in 2026

47




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A. Sequence

As noted above, self-defense cases are best seen as a continuum. If the Defendant is unsuccessful in asserting the Castle Doctrine or perfect self-defense, he must resort to **imperfect self-defense** under the common law.

To be clear, imperfect self-defense is available if the Defendant loses the right to perfect self-defense.⁹³

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North Carolina Self-Defense in 2026

48



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B. Eligibility

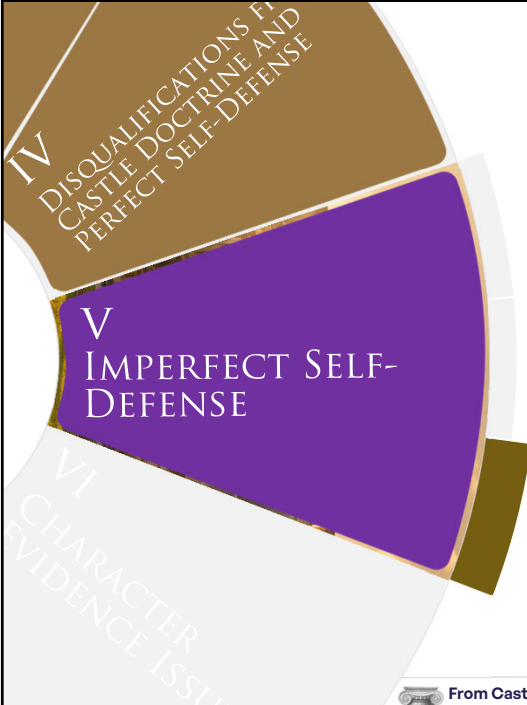
The Defendant must meet the **first two elements** of the *Norris* test **and** must not have had **murderous intent** as an aggressor.⁹⁴

Murderous intent occurs when “one brings about an affray with the intent to take life or inflict serious bodily harm.”⁹⁵

Consequently, “he is not entitled even to the doctrine of imperfect self-defense . . . and if he kills during the affray he is guilty of murder. . . . [T]he jeopardy into which he has been placed by the act of his adversary constitutes no defense whatever, but he is guilty of murder.”⁹⁶

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

49



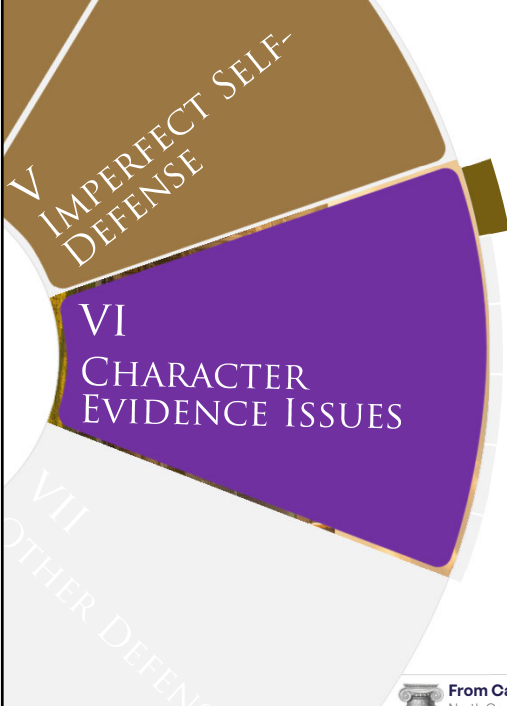
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C. *Norris* Test

- 1 The Defendant believed it was necessary to kill to save himself from death or great bodily harm;
- 2 His belief was reasonable;
- 3 He was not the aggressor; and
- 4 He did not use excessive force.⁹⁷

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50



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A. Overview

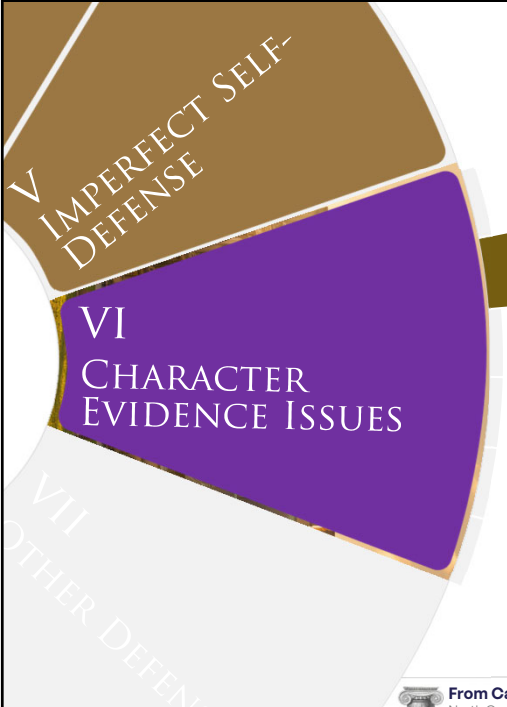
The main character issues arising in self-defense cases are determining which **methods** can be used to prove:

- (1) the victim was the first aggressor;
- (2) the Defendant's fear of the victim was reasonable; and
- (3) the Defendant's use of force was reasonable.⁹⁸

In short, Rules 404 and 405 work in tandem to allow certain types of character evidence in self-defense cases.⁹⁹ A helpful tool is to imagine each of the three as **coat hooks**. Some types of character evidence can be hung on one hook but not another.

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

51



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B. The State Cannot Use Character First

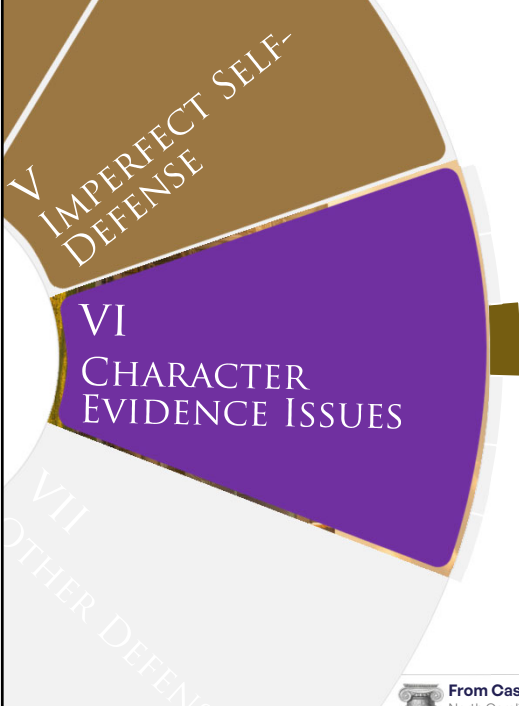
The decision belongs to the Defendant in whether character evidence will be used to prove, as relevant here, that he acted in conformity with a peaceful trait and/or the victim acted in conformity with a violent trait.¹⁰⁰

Absent the Defendant's introduction of such character evidence, the State **cannot** use the same.¹⁰¹

But, in a homicide case, when the Defendant asserts self-defense and offers evidence that the victim was the first aggressor, the State may introduce evidence that the **victim** was a **peaceful** person under Rule 402(a).

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North Carolina Self-Defense in 2026

52



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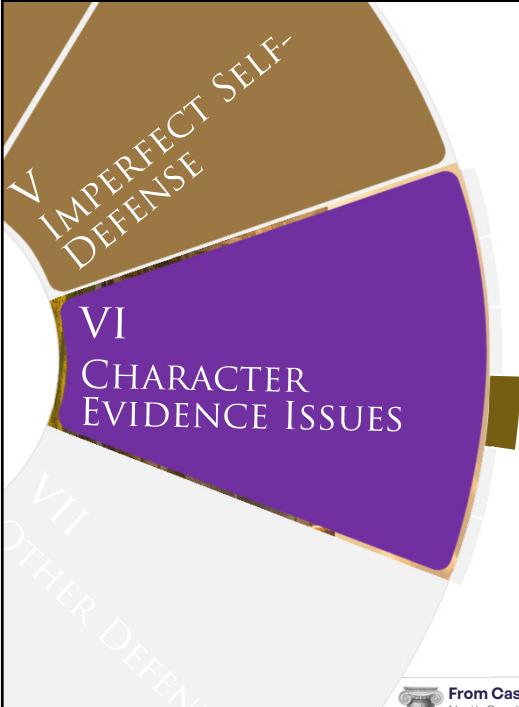
C. First Aggressor

Using the earlier analogy, only **certain types** of character evidence can be hung on this hook to prove the victim was the **first aggressor**. Only reputation and opinion testimony may be used.¹⁰² In other words, the Defendant **cannot** use specific instances of conduct to prove the other person was the first aggressor.¹⁰³

However, if the State uses a character witness to give reputation and opinion testimony about the victim's character for peacefulness, the Defendant may **cross-examine** about **specific instances of conduct** of the victim to cast doubt on such testimony.¹⁰⁴

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North Carolina Self-Defense in 2026

53



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D. Fear and Use of Force

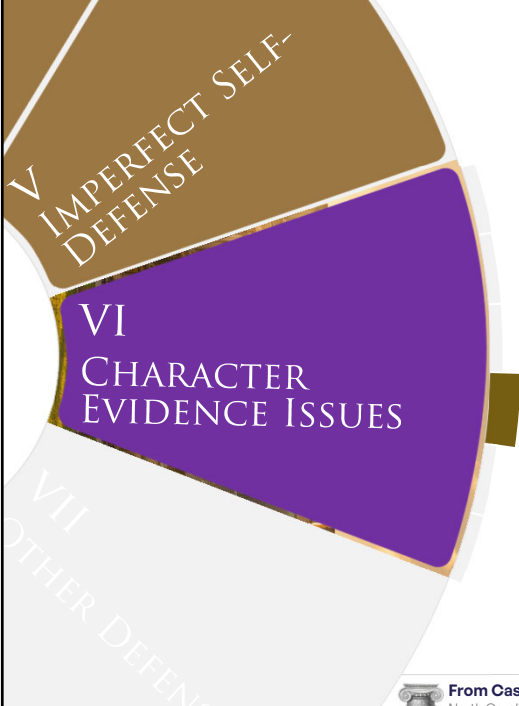
Using the earlier analogy, an additional type of character evidence (i.e., specific instances of conduct) can be hung on the hooks that the Defendant's (1) fear of the victim was reasonable and (2) use of force was reasonable.

If the Defendant had **knowledge** of specific instances of conduct of the victim's violent character at the time of the confrontation, such character evidence may be allowed to prove the same.¹⁰⁵

Continued on Next Slide.

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

54



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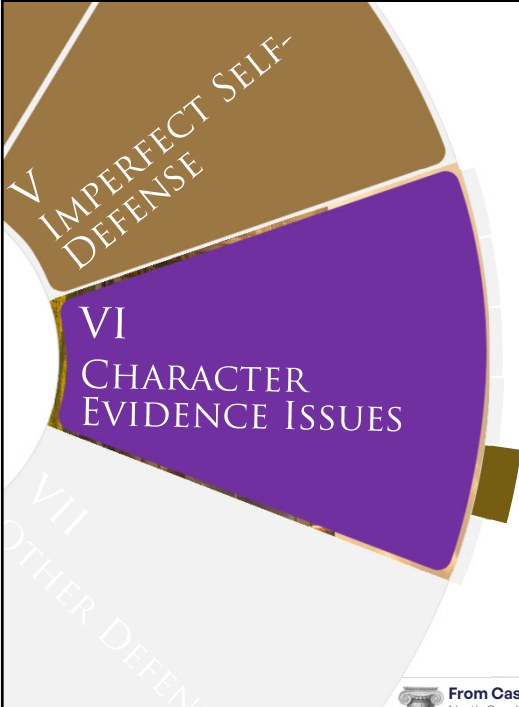
D. Fear and Use of Force (Cont.)

There is **no time limitation** as to when the specific instances of conduct occurred.¹⁰⁶ The victim's prior threats to the Defendant are admissible.¹⁰⁷ To be clear, the Defendant's reasonable belief and need to defend himself are essential elements of self-defense, thus allowing for specific instances of conduct of the victim.¹⁰⁸

Other **potential bases of admissibility** for the defense include Rule 404(b) (a proper purpose), Rule 406 (habit evidence—e.g., victim invariably carried a knife), and Rule 609 (impeachment evidence).

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

55



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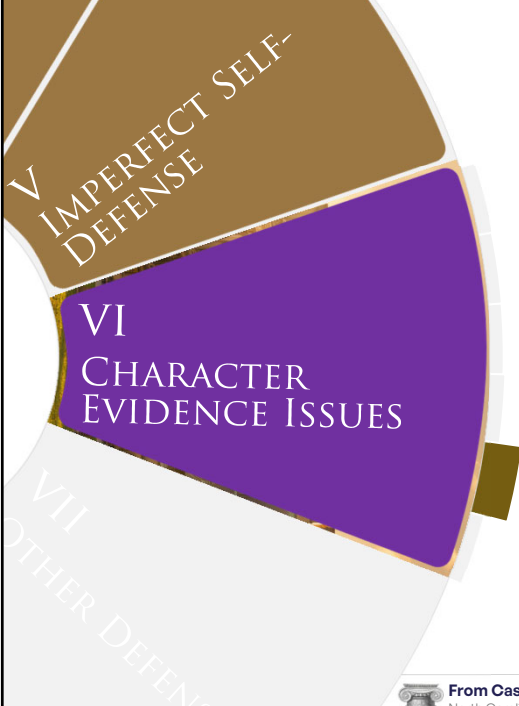
E. Rule 404(b) Evidence

Rule 404(b) evidence may be used by the State or defense. Often referenced as a “rule of inclusion,”¹⁰⁹ the “general rule” in a criminal prosecution is that “the State **cannot** offer evidence tending to show that the accused has committed another distinct, independent, or separate offense . . . even though the other offense is of the same nature as the crime charged.”¹¹⁰ This general rule of exclusion in criminal cases exists because of heightened prejudice to the Defendant.¹¹¹

The burden of establishing admissibility is on the proponent of the Rule 404(b) evidence.¹¹²

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North Carolina Self-Defense in 2026

56




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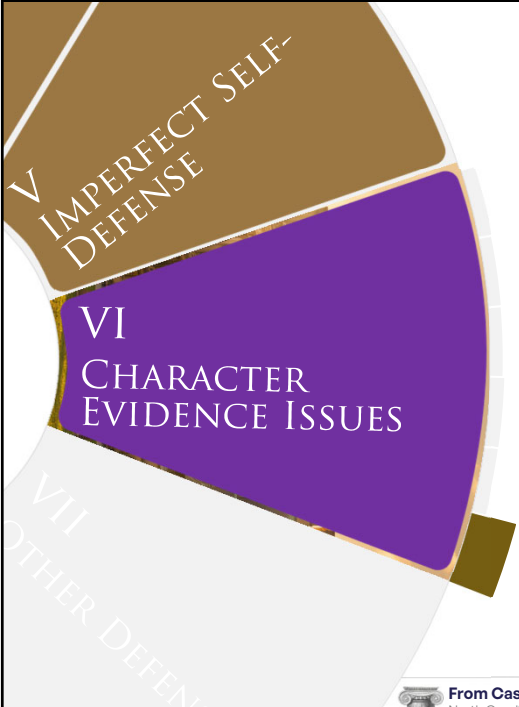
E. Rule 404(b) Evidence

I have used a Memorandum of Law over the years in opposition to Rule 404(b) evidence. See [Exhibit C](#).

The Memorandum is largely attributable to Constance Widenhouse, a former Assistant Appellate Defender.

 **From Castle Walls to Street Confrontations**
North Carolina Self-Defense in 2026


57



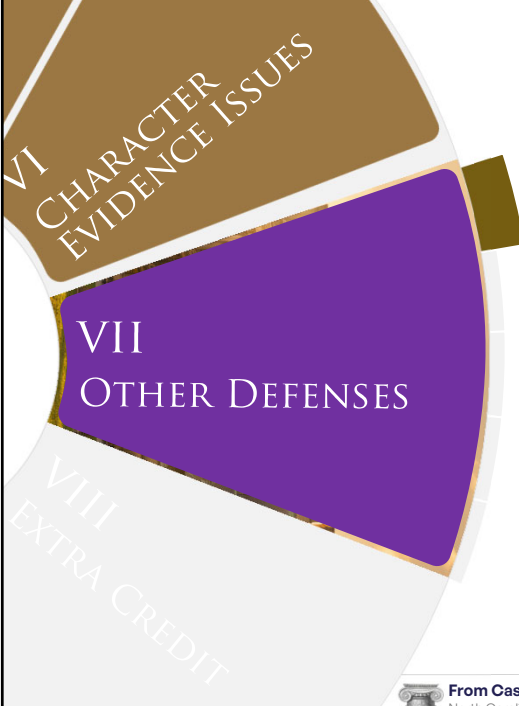
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F. Victim's Criminal Record

The Defendant may introduce a certified copy of the victim's criminal record to **corroborate** the Defendant's testimony that the victim had a violent character.¹¹³

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North Carolina Self-Defense in 2026

58



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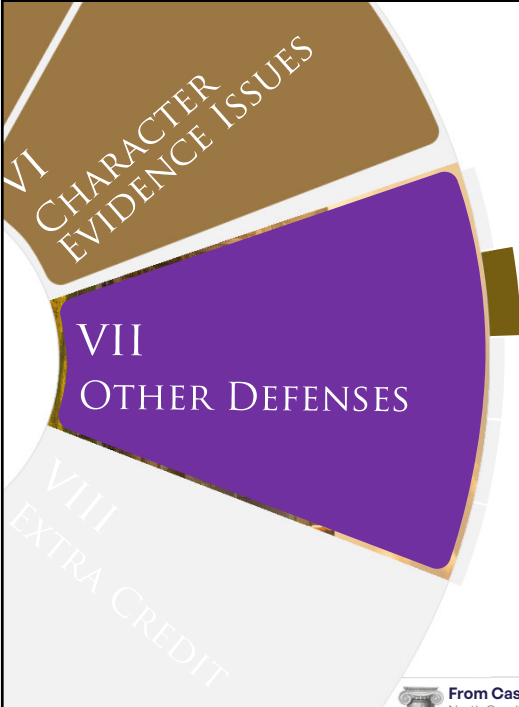
A. Defense of Others or Family

These common law defenses are viewed as having been supplanted by enactment of the self-defense statutes in 2011 (e.g., one may use deadly force to prevent imminent harm to “another”¹¹⁴).

While there is not a published opinion on this issue, the pattern jury instructions refer to those defenses within the self-defense statutes.¹¹⁵

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026

59



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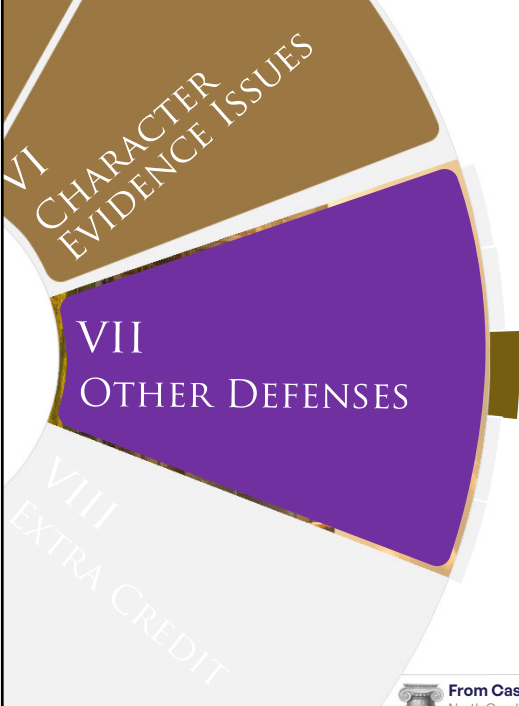
B. Crime Prevention

Common law permits a citizen to use **reasonable force** to prevent or terminate a **felony** or a misdemeanor amounting to a **breach of the peace**.¹¹⁶ While older opinions authorized deadly force to prevent any felony, the modern rule requires such felony to involve a substantial risk of death or serious bodily harm.¹¹⁷

These defenses existed prior to the enactment of the self-defense statutes in 2011, although this author is not aware of a published opinion on whether such defenses have been supplanted.

From Castle Walls to Street Confrontations
North Carolina Self-Defense in 2026


60



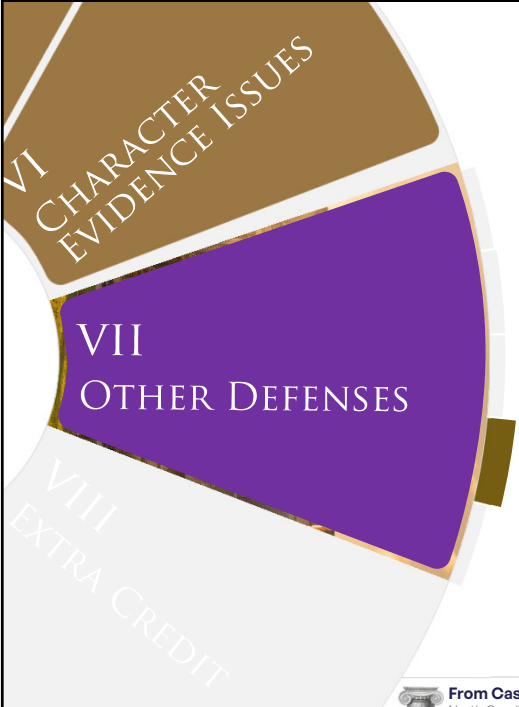
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C. Detention of Offender

Statute permits a citizen to detain another person, with limitations as to time and manner, when he has probable cause to believe that person committed, **in his presence**, a: (1) felony; (2) breach of the peace; (3) crime involving physical injury to another; or (4) crime involving property theft or destruction.¹¹⁸

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North Carolina Self-Defense in 2026


61



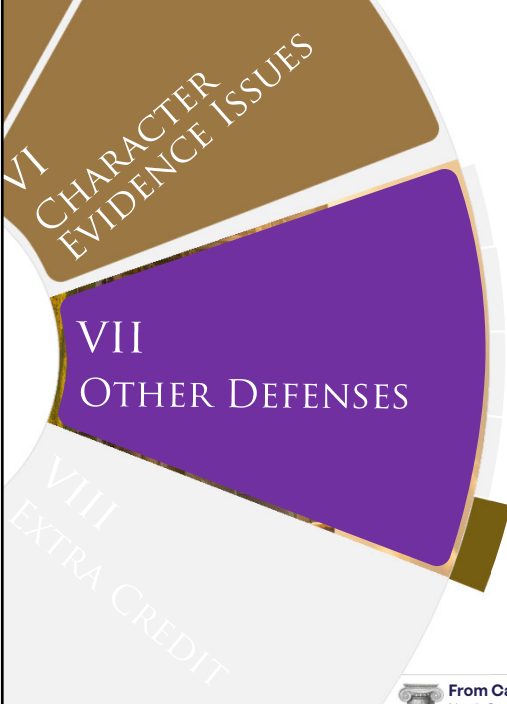
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D. Defense of Property

Common law permits a citizen to use reasonable force to protect against another person taking or damaging his property.¹¹⁹ The force cannot be more than reasonably necessary to protect the property nor endanger or inflict great bodily harm unless felonious force was used by the wrongdoer.¹²⁰

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North Carolina Self-Defense in 2026

62






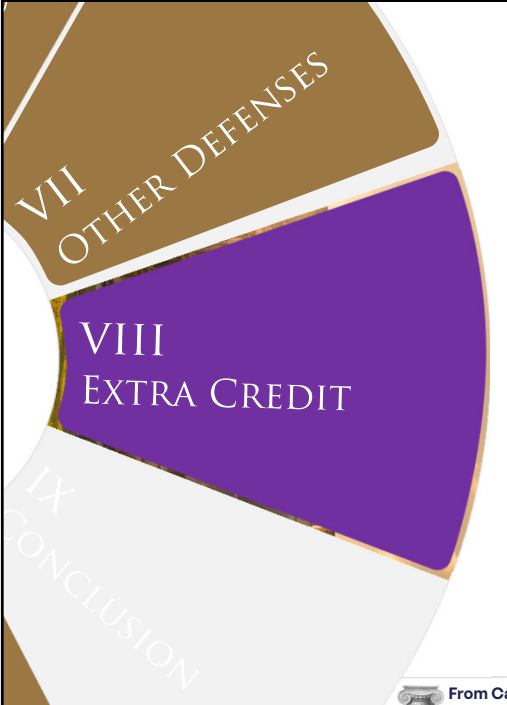
E. Necessity


The Defendant may use the defense of necessity to a Possession of a Firearm by a Felon charge in a narrow circumstance. He must show: (1) he was under unlawful, present, imminent, and impending threat of death or serious injury; (2) he did not negligently or recklessly place himself in a situation where he would be forced to engage in criminal conduct; (3) he had no reasonable legal alternative to violating the law; and (4) there was a direct causal relationship between the criminal action and the avoidance of the threatened harm.¹²¹

The critical inquiry is whether he was under an imminent threat **at the time he took possession** of the firearm rather than when he used it.¹²²



63






A. Pre-Trial Integrity Act

In October 2023, the Pre-Trial Integrity Act made sweeping changes to statutes authorizing conditions of release.¹²³


Among other things, the Act: (1) only allowed a judge to set conditions of release for 18 listed offenses¹²⁴; and (2) only allowed a judge to set conditions of release if the Defendant committed almost any new offense while on pre-trial release unless 48 hours passed after arrest.¹²⁵

1. Immigration Enforcement

2. Iryna's Law



64




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1. Immigration Enforcement

Beginning October 1, 2025, when a judicial official sets conditions of release for a Defendant charged with any felony, DWI, DVPO violation, or a large number of Class A1 misdemeanors, then the judicial official must attempt to determine if the Defendant is a legal citizen or resident, including asking the Defendant directly about his status.¹²⁶

If the judicial official is unable to determine the status, he must set conditions of release and commit the Defendant to a detention facility for **not more than two hours** following the facility's query to Immigration and Customs Enforcement (ICE).¹²⁷

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North Carolina Self-Defense in 2026

65




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2. Iryna's Law

The tragic murder of Iryna Zarutka on a Charlotte train in August 2025 led to major changes beginning **December 1, 2025**.¹²⁸

a. Rebuttable Presumptions Against Release:
If the Defendant is charged with a "**violent offense**,"¹²⁹ there is a **rebuttable presumption** that **no condition of release** will reasonably assure his appearance and the safety of the community.¹³⁰ If the judicial official grants pre-trial release in this instance, he must impose a **secured bond** or **house arrest with electronic monitoring**.¹³¹ Additionally, the judicial official must make **written findings of fact** explaining the reasons why he determined the conditions of release to be appropriate by applying a number of statutory factors.¹³²

b. No More Promises to Appear:
A judicial official can no longer release the Defendant on a written promise to appear.¹³³

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North Carolina Self-Defense in 2026


66

VIII
EXTRA CREDIT

IX
CONCLUSION

I
NOTICE OF
DEFENSES

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THE RIGHT OF SELF-DEFENSE NEVER CEASES. IT IS AMONG THE MOST SACRED AND . . . NECESSARY TO NATIONS AND TO INDIVIDUALS.

President James Monroe (1818)

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