

[CAPTION]

**REQUEST FOR PRE-TRIAL DISCLOSURE OF THE STATE'S
INTENTION TO OFFER 404(B) EVIDENCE AT TRIAL**

The Defendant, by counsel, respectfully requests this Court to order the State to disclose to the defense at least thirty (30) days before trial its intention to offer evidence of other crimes, wrongs or acts committed by any State or defense witness either in its case-in-chief or in rebuttal. In support of the Request, the Defendant states the following:

1. Upon a defendant's request in a criminal case, the prosecution must give reasonable notice of the general nature of the evidence in advance of trial. Ind.R.Evid. 404(b); McEwen v. State, 695 N.E.2d 79, 89 n.5 (Ind. 1998).
2. Indiana Rule of Evidence 404(b) applies to all witnesses, and not just the Defendant. Garland v. State, 788 N.E.2d 425 (Ind. 2003).
3. When the notice requirement was added in 1991 to Fed.R.Evid. 404(b), which reads similarly to Ind.R.Evid. 404(b), the Senate Committed noted, "the amendment requires the prosecution to provide notice, regardless of how it intends to use the extrinsic act evidence at trial, i.e., during its case in-chief, for impeachment, or for possible rebuttal." Notes on Committee on the Judiciary, Senate Report No. 93-1277.
4. A thirty (30) day notice will afford the defense an opportunity to challenge in advance of trial the admissibility of prior act evidence, thereby giving the Court sufficient time to consider and rule, at least preliminarily, on these important evidentiary issues.

WHEREFORE, the Defendant, by counsel, respectfully requests this Court to order the State to disclose to the defense at least thirty (30) days before trial its intention to offer evidence of other crimes, wrongs or acts committed by any State or defense witness either in its case-in-chief or in rebuttal.

(Signature)