

[CAPTION]

**MOTION IN LIMINE TO EXCLUDE REFERENCES TO THE ACCUSED AS THE
DEFENDANT**

The accused, by counsel, respectfully requests this Court to order the State from referring to the accused as the “defendant” in the presence of the jury. In support of the Motion, the accused states the following:

1. The State has charged [insert name of client] with the offenses of [insert offenses].
2. A jury trial on these offenses is scheduled to begin on [insert date].
3. It has long been the practice in criminal law to refer to the persons accused of criminal offenses as “Defendants.”
4. “Defend” is “to attempt to disprove or invalidate (an action or a claim).”
American Heritage Dictionary of the English Language, Fourth Edition, 2006.
“To support, maintain, or justify (defend one’s conduct)”, and a “defendant” is the person “defending.” Webster’s New World College Dictionary (3rd Ed. 1997).
5. The common connotation of the words “defendant” and “defend” imply some necessary action to disprove the charges against one, or somehow excuse or justify conduct.
6. In the civil law context, the use of the term “defendant” is appropriate because of the different burden of proof. However, use of the term is inappropriate in a criminal law context where the accused bears no burden to disprove the State’s case. Rather, the State must prove its case beyond a reasonable doubt. .

7. Both the U.S. Constitution and the Indiana Constitution, refer not to the rights of the “defendant” in criminal prosecutions, but to the rights of the “accused.” See, e.g., Indiana Constitution, Article I, Section 13; U.S. Constitution, Sixth Amendment.
8. The use of the terms “defendant” and “defend” are demeaning and prejudicial to one accused of a crime. Further, the connotation contained in those words impinges on the accused presumption of innocence and therefore on his rights to due process and a fair trial.

WHEREFORE, the accused, by counsel, respectfully requests this Court to order that [insert client’s name] be referred to at all times by either his proper name or as the “accused,” and for all other relief just and proper in the premises.

(Signature)