

[INDIANA CAPTION]

**MOTION FOR A CERTIFICATE PURSUANT TO THE UNIFORM ACT TO
SECURE THE ATTENDANCE OF WITNESSES WITHOUT A STATE IN
CRIMINAL PROCEEDINGS**

The Defendant, by counsel, respectfully requests the Court to issue a CERTIFICATE pursuant to Ind. Code 35-37-5-5 to the Honorable [OUT- OF-STATE JUDGE'S NAME AND COURT], certifying that:

(1) [NAME OF OUT-OF STATE WITNESS] resides at [ADDRESS OF OUT-OF-STATE WITNESS];

(2) He is a material witness in the above captioned criminal proceeding;

(3) The criminal proceeding is to commence on [DATE]; and

(4) The proceeding will continue for approximately [NUMBER OF DAYS].

WHEREFORE, the Defendant respectfully requests this Court that this Motion be granted, a CERTIFICATE be issued under seal seeking the attendance of [NAME OF OUT-OF-STATE WITNESS] as a witness for the Defendant in the above captioned cause of action, and for all other relief proper in the premises.

(Signature)

NOTE:

In order to assure the out-of-state witness' appearance, the Defendant can move the Court to recommend, in the Certificate, that the out-of-state witness be taken into immediate custody in the sending State. I.C. 35-37-5-4.

See also Ind. Practice Series, Trial Handbook § 16:4 (in criminal actions, Indiana has adopted the Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal Proceeds; this act is dependent on whether the state where the witness is residing has a reciprocal agreement).

CASE LAW

Engle v. State, 467 N.E.2d 712 (Ind. 1984) (trial court did not err in denying Defendant's motion to certify necessity of out-of-state witness where Defendant did not initiate correct procedures to compel presence of witness until trial was in process and legal grounds for continuance were not established).

Forbes v. State, 810 N.E.2d 681 (Ind. 2004) (when out-of-state witness does not object to Indiana subpoena, failure to comply with Uniform Act to Secure the Attendance of Witnesses from Without the State does not require suppression of subpoenaed evidence; Act is "permissive" legislation and offers a formal manner to compel out-of-state witnesses to participate in Indiana litigation).

Collins v. State, 14 N.E.3d 80 (Ind.Ct.App. 2014) (in post-conviction proceeding, trial court's denial of request to subpoena public defender who resided in Florida was not an abuse of discretion because there are no provisions for compulsory attendance of out-of-state residents in civil actions).