

DEFENDANT'S MOTION TO INTRODUCE RAPE SHIELD EVIDENCE

The Defendant, by counsel, in support of this Motion to Introduce Rape Shield Evidence, states the following:

1. The Defendant is charged with the offense of 35-42-4-1(a)(2), Rape where victim is unaware.
2. This matter is currently set for trial on July 5, 2016.
3. The Defendant wishes to admit at trial evidence that may normally be excludable as evidence of past sexual conduct under Ind.R.Evid. 412 or I.C. 35-37-4-4. Rape Shield Statute concerns must yield to Sixth Amendment right to cross-examination. Steward v. State, 636 N.E.2d 143 (Ind.Ct.App. 1994); Davis v. State, 749 N.E.2d 552 (Ind.Ct.App. 2001); Turney v. State, 759 N.E.2d 671 (Ind.Ct.App. 2001); Saylor v. State, 559 N.E.2d 332 (Ind.Ct.App. 1990).
4. The Defendant wishes to make an offer of proof concerning this evidence, to show its relevancy and the reasons that such evidence should be admitted.
5. The Defendant's offer of proof is set forth with particularity in the Affidavit attached and incorporated herein.

WHEREFORE, the Defendant, by counsel, respectfully requests this Court to grant his Motion to Introduce Rape Shield Evidence, to set a hearing outside the presence of the jury for the purpose of questioning the victim/witness regarding his offer of proof, to find such evidence admissible, to enter an Order delineating the admissibility of the evidence and nature of permissible questioning, and for all other relief just and proper in the premises.

Respectfully submitted,

AFFIDAVIT OF ATTORNEY

Comes now the affiant, being first duly sworn upon her oath, alleges and says as follows:

1. Affiant is counsel for the defendant in the above referred cause.
2. During the deposition of State's witness [NAME]the following testimony was elicited:

I affirm under penalties of perjury that the foregoing is true to the best of my knowledge and belief.

Date:_____