

## DNA LEGISLATION & NEWS

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Tim Schellberg tims@smithallinglane.com and Lisa Hurst lhurst@smithallinglane.com of Smith Alling Lane, P.S. provide nationwide governmental affair services to PE Biosystems. As part of the firm's representation weekly reports are generated which identify recent state and federal legislation and news articles. PE Biosystems has authorized Smith Alling Lane to make these reports available to anyone that requests them through this web site.

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The March 3, 2000 DNA report is attached. Relevant summaries are listed below.

These reports are prepared by Tim Schellberg and Lisa Hurst of Smith Alling Lane (253) 627-1091, on behalf of PE Biosystems.

### COMMENTS

1. California, Iowa and New Jersey have introduced have all introduced legislation that would expand the samples in criminal DNA databases. California is also considering a bill that would create a missing or unidentified child database.
2. California (article 4) and Michigan (article 12) lawmakers are preparing legislation to extend statute of limitations. New York Governor Pataki proposes to eliminate statute of limitations for 16 violent felony crimes and require DNA testing for all criminals convicted of Class B misdemeanors (articles 8, 14, & 16).
3. More discussion and support for US Senator Leahys post-conviction DNA testing bill in articles 11, 18, & 19.
4. US Department of Justice fiscal year 2001 requests for DNA funding in article 6. Federal activities for funding also discussed in article 7.

### STATE LEGISLATION

#### Forensic DNA

1. California AB 2814 -- Requires DNA from all specified offenders held in the CA system and mental facilities (samples currently not collected from offenders sentenced by federal, military or other states courts. Deletes requirement to remove DNA from collected from crime scenes if the person is no longer a suspect.
2. California SB 1736 -- Prohibits cremation of unidentified corpses until DNA samples are taken for future possible identification. Samples are to be held indefinitely.
3. California SB 1818 -- Creates a database for unidentified and missing children and authorizes testing of volunteered samples from parents.
4. California SB 1833 -- Creates the Institute for Criminal Justice Technology that will review and evaluate current and new technologies (including DNA) and operate 2 centers for upgrades, maintenance, training, etc. Gives center \$10 M over 4 years.
5. Iowa HB 2447 & SB 2333 -- Funds 9 additional crime lab personnel at \$437,000 (federal fund matching requirement).

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6. Iowa SB 2324 -- Requires DNA tests for specified offender upon confinement, commitment, or release from jails or prisons, or upon discharge of a sentence.

7. Minnesota HB 3874 -- Extends statute of limitations when a death is involved. Exempts any time when the defendant actively concealed evidence.

8. New Jersey AB 2084 -- Requires DNA samples from convictions of murder, manslaughter, 2nd degree assault, kidnapping, and sexual conduct that debauches the morals of children.

### **Genetic Privacy**

9. California AB 2797 insurance companies may not disclose the genetic history of a customer.

10. Florida SB 1580 HMOs may not discriminate against a customer based on genetic information.

11. Idaho SB 1528 Prohibits discrimination based on genetic information.

12. Indiana HB 1050 Workers compensation suits may not disclose genetic information about the employee.

13. Iowa SB 2305 Prohibits the disclosure of genetic information with respect to employment.

14. Missouri SB 1039 Genetic information may not be treated as a pre-existing condition.

15. Missouri SB 1044 Insurance may not discriminate against a customer based on genetic information.

16. New York AB 5543 Creates a privacy commission to study the privacy of citizens in New York. Mentions concern with privacy of genetic information.

## **NEWS ARTICLES**

### **Forensic DNA**

1. Suggests halt to Texas executions (focus on Betty Beets, a.k.a. "Black Widow"). Mentions use of DNA technology to exonerate inmates.

2. Florida Governor Jeb Bush tells former state Supreme Court justice to reveal the names of inmates he said have been wrongly executed.

3. Statutes of limitations should be reviewed, due to new DNA technology.

4. California lawmaker hoping to extend statute of limitations for rape amendment being considered that would allow an extension of statute of limitations, but charges would have to be filed within 1 year of DNA test.

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5. Overview of debate on California bond measure to update and expand crime lab facilities.
6. U.S. Dept. of Justice FY 2001 requests (from congressional testimony): \$50 million to improve forensic labs and reduce DNA backlog; \$5.3 million and 5 positions to implement a federal offenders DNA database.
7. "Backlogs keep DNA evidence on shelf" Spotlight on Virginia Congress considering legislation to make several hundred million dollars available to states for DNA databases.
8. Praises efforts to allow post-conviction DNA analysis, but criticizes NY Governor Pataki's plan to eliminate statute of limitations for many crimes.
9. Massachusetts Statehouse holds hearings on proposed regulations to have offenders pay for DNA testing. The state is already collecting the money.
10. Editorial against California Proposition 15 (\$220 million bond for crime labs). Much cheaper for state to contract with private labs for DNA analysis.
11. Discussion of U.S. Senator Leahy's post-conviction bill. Louisiana Senate Judiciary Chairman is drafting a post-conviction bill.
12. Michigan to consider extending the statute of limitations for rape and other sexual assaults -- draft bill should be ready in a few months. Senate Judiciary Chairman says he would like to eliminate statute of limitations for any felony where DNA evidence is available.
13. Australia is considering a partnership with Britain to start up DNA database.
14. NY Governor Pataki announces proposal to require DNA samples of all criminals convicted of Class B misdemeanors or greater. Plan is criticized due to current backlog problems. State has only collected samples from 17,000 of 100,000 criminals currently required to submit samples.
15. National Association of Criminal Defense Lawyers calls for easier access to DNA testing and crime labs independent from police departments. Supports S. Sen. Leahy's post-conviction DNA testing bill.
16. NY Governor Pataki proposes to eliminate statute of limitations for 16 violent felony crimes and require DNA testing for all criminals convicted of Class B misdemeanors. Chair of State Senate Code Committee expects some version of proposal to be enacted.
17. South Dakota bill for post-conviction testing fails in the House, even though it had a near-unanimous vote in the Senate.
18. US Senator Tom Daschle (D) speaks in favor of Leahy post-conviction bill.
19. US Senator Toricelli (R) says federal government should establish lead for states to follow on using DNA evidence in court (ie. for post-conviction access and testing).

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### **Genetic Privacy**

20. Urges Congress to establish genetic privacy protections for private sector employees similar to what has been granted to federal workers.
21. Genetic privacy laws for worker discrimination are needed.
22. New Hampshire House to consider barring use of genetic testing for most life and disability policies (already barred for basic health insurance).