

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.

The information presented in these reports does not necessarily reflect the viewpoints of PE Biosystems or Smith Alling Lane, P.S.

The April 7, 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. Post conviction DNA testing received a great deal of attention this week – see the California, Delaware and Wisconsin bills, and articles 6-9, 11-13, 16, 20 & 21. Additionally, the Congressional Black Caucus mentioned post conviction DNA analysis in a floor speech on the budget (see Congressional Record excerpt), and the US House has introduced a post conviction bill similar to Senator Leahy's (see articles 6 & 16).

STATE LEGISLATION

Forensic DNA

1. Delaware HB 531 – Provides for post conviction DNA testing, under certain conditions.
2. California SB 1342 – Provides for post conviction DNA testing, under certain conditions.
3. Massachusetts HB 5100 – Appropriates \$3+ million to the state DNA lab and \$387,930 to the Boston Police DNA lab.
4. New York SB 7204 – Extends the statute of limitations for certain crimes if the crime was reported within 30 days and there is DNA evidence.
5. Wisconsin AB 497 – Provides for post conviction DNA testing, preservation of evidence, and extends the statute of limitations for certain crimes.

Genetic Privacy

6. New York AB 10324 & SB 5077 – “Protected health information” includes genetic information.

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NEWS ARTICLES

Forensic DNA

1. The Daily Telegraph (London), April 4, 2000. "DNA 'family tree' may identify criminals" British genealogists discover hereditary surnames have similar DNA – article speculates that such information could result in revealing an unknown criminal's last name.
2. The Associated Press, April 4, 2000. "Former 'Star Search' comedian goes on trial for campus rape."
Nebraska rape case defense lawyer argues that DNA evidence is not reliable. Lawyer says the sample base used to set the odds of a DNA match are too small (1 in 10 million, base of 202 people; 1 in 57 billion, base of 100 people).
3. The Associated Press, April 4, 2000. "Judge allows DNA test results from aggravated robbery suspect's dog."
Mitochondrial DNA from dog hairs found at a crime scene are being used to prosecute a robbery suspect in Texas. The dog hairs are said to belong to the suspect's pets.
4. The Associated Press, April 4, 2000. "DNA samples sought from former suspects in mass killings".
Cook County, Illinois investigators seek DNA from suspects – hope to solve 1993 mass killing. Not all suspects have agreed to the test.
5. World Sources Inc., April 4, 2000. "Legislators fear DNA data access"
Hong Kong legislators back off criminal DNA database expansion in fear of Beijing obtaining access to database.
6. The New York Times, April 4, 2000. "Bills to Stop Executing the Innocent"
US Reps. LaHood (R-IL) and Delahunt (D-MA) introduce post conviction DNA testing access bill, similar to Sen. Leahy's. Judiciary Committee chairs in the House and Senate have agreed to hold hearings.
7. The San Francisco Examiner, April 4, 2000. "DNA testing – Sherlock Holmes in the lab."
Focuses on California post conviction bill that is scheduled for a hearing on April 11. Article warns that proper safeguards should be constructed to keep inappropriate cases out and should not be used merely as execution delay tactics.

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8. The Associated Press, April 3, 2000. "Utah group to use DNA evidence to free wrongfully convicted"
University of Utah law school's Rocky Mountain Innocence Center plans to use DNA technology to free innocent convicts. To date, DNA evidence has not exonerated any Utah inmates.
9. The Providence Journal-Bulletin, April 3, 2000. "Reopening cases with DNA"
The National Commission on the Future of DNA Evidence has urged prosecutors to consider reopening cases of convicted people who might be found not guilty through DNA evidence testing, even if appeal period has lapsed.
10. USA Today, April 3, 2000. "Mystery suspects charged through DNA"
California, New York, Oklahoma, Utah and Wisconsin have filed charges against unknown criminals based on DNA evidence – more states are expected to follow suit. Since 1992 DNA has been used to free 62 convicted men and now prosecutors argue that they should be able to use the same technology to pursue old cases and better preserve future prosecutions.
11. The Virginian-Pilot, April 3, 2000. "DNA request denied a test of justice"
Virginia prepares to defend its refusal to grant an inmates request for post conviction DNA testing before the 4th US Circuit Court of Appeals in May.
12. Chicago Daily Law Bulletin, April 3, 2000. Illinois bill requiring prosecutors to preserve evidence was approved by the Senate unanimously. The Public Defender's Office would particularly like to make sure DNA evidence is properly preserved.
13. The Denver Post, April 2, 2000. "Making a case to stop convicting the innocent"
Review of "Actual Innocence" by Barry Scheck, Peter Neufeld and Jim Dwyer. Article claims that the only thing more hard to believe than the stories in "Actual Innocence" is the reluctance of courts and prosecutors to allow inmates access to exonerating evidence.
14. The Des Moines Register, April 2, 2000. "Crime lab under crunch"
Iowa's state crime lab has space and staff shortages that have resulted in considerable backlogs and delays. The Department of Public Safety has asked state legislature for \$60 million for a new lab, but has been denied for this year.
15. The Omaha World-Herald, April 2, 2000. "Sex Abuse Registry Shortchanged"
Iowa State crime lab has a backlog that can put prosecution of criminal cases in jeopardy. Key House members believe current staff levels are sufficient.

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16. The Associated Press, March 31, 2000. "A summary of Illinois news"
Illinois Governor Ryan praises federal post conviction legislation introduced by Reps. LaHood (R-IL) and Delahunt (D-MA) and Senator Leahy (D-VT). House Speaker Hastert has not promised to advance the bill, but has promised to give it a closer look.
17. Albuquerque Tribune, March 31, 2000. "First step taken toward building new crime lab"
New \$12.4 million crime lab being planned in New Mexico for Albuquerque and Bernalillo County law enforcement.
18. Pittsburgh Post-Gazette, March 31, 2000. "County Democrats in State House back Roddey's Request for \$7 million".
Allegheny County, Pennsylvania State House delegation backs County Executive's request for \$7 million – including \$1.4 million a year to cover the cost of the county crime lab.
19. The Times (London), March 31, 2000. "'Wrong' DNA traps rapist"
DNA exonerates suspect in London on a rape charge, but database check matches suspect to two previous unsolved rape crimes.
20. The Times-Picayune, March 31, 2000. "Senate approves bill to allow convicts access to DNA testing".
Louisiana Senate has unanimously passed a bill for post conviction testing for prisoners convicted of felony sex offenses.
21. Copley News Service, March 30, 2000. "Ryan praises push for death-penalty reforms; pushes for more federal funding for state."
Illinois Governor holds Capitol Hill press conference for post conviction bill with House bill sponsors. Adds that states need more money to process DNA backlogs. Bill sponsor, Rep. LaHood, says bill probably will not pass this year.

Genetic Privacy

23. The Daily Yomiuri (Tokyo), April 5, 2000. "Downside of gene decoding posing problem for US"
Polls in America show that discrimination based on genetic test results – both for employment and insurance -- is a reality.