

## 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 April 14, 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. Text of legislation can be obtained by following the appropriate state-link at this site: [www.ncsl.org/public/sitesleg.htm](http://www.ncsl.org/public/sitesleg.htm). Please see the appropriate media website for the newspaper articles.

### COMMENTS

#### *EXPANSION*

Support for New York all felons bill is mentioned in article #21.  
Arkansas may push for DNA samples from more criminals (article #18).  
Connecticut local Police Chief argues for sampling all criminals (article #1).  
DNA "dragnetting" in Australia is discussed in article #'s 10 & 24.  
In New York, court considers motion to suppress DNA evidence collected from a discarded item (article #16).

#### *FUNDING*

Article #17 indicates that Congress intends to act this year on federal funds for DNA backlogs.  
DNA backlog funding is also a problem for Scotland (article #13) and Canada (article #4).

#### *STATUTE OF LIMITATIONS*

Connecticut & Delaware have introduced new bills (bill #'s 1 & 2). See also articles 2, 17, 21.

#### *POST CONVICTION TESTING*

Connecticut and Missouri have introduced new bills (bill #'s 1 & 5)  
Louisiana House refuses to consider post conviction bill that passed the Senate (article #22). See also articles 5, 6-9, 11, 12, 19, 23.

#### *MISCELLANEOUS FORENSIC*

Arkansas celebrates its first cold hit on DNA database (article #18).  
Great Britain celebrates its 5-year old database that makes 600 matches per week (article #14).

### STATE LEGISLATION

#### **Forensic DNA**

1. Connecticut HB 5903 - Extends the statute of limitations to 20 years for the prosecution of sexual assault, if the victim reported the crime within 5 years of occurrence and the offender's DNA profile is available.
2. Delaware SB 329 - Extends statute of limitations for crimes when prosecution is based on DNA evidence. Also allows post conviction DNA testing.

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3. Florida HB 2147 - Implementing provisions for appropriations bill - assumes 24,000 samples will be added to DNA database.
4. Florida SB 2200 - Appropriations bill - assumes 24,000 samples will be added to DNA database.
5. Missouri SB 678 - Requires DNA evidence used in a felony conviction to be preserved by the Missouri Highway Patrol.

### **Genetic Privacy**

6. Florida HB 2343 - HMO's may not refuse to issue or renew policies based on genetic information.
7. Rhode Island SB 2535 - Creates a special panel to study confidentiality and proprietary rights regarding genetic testing.

### **Agriculture**

8. Arkansas HB 1005A & SB 5A - uses tobacco settlement funds to create an Arkansas Biosciences Institute at the University of Arkansas, Arkansas State University and Arkansas Children's Hospital. Institute work is to include research and education on agri-medicine, genetics and bioengineering.
9. Pennsylvania HRes 453 - Urges Congress to enact legislation that would require the labeling of genetically engineered foods.

## **NEWS ARTICLES**

### **Forensic DNA**

1. USA Today, April 13, 2000. "Jury fails to find Sheppard innocent in wife's slaying Verdict deals fatal blow to son's efforts to clear his father's name".  
Centerpiece of for Sheppard's lawyers ("The Fugitive") was DNA evidence that suggested someone else killed Sheppard's wife. The State argued that the DNA evidence was contaminated.
2. Associated Press State & Local Wire, April 12, 2000. "Action in the General Assembly on Wednesday" Delaware's House of Representatives has passed a bill to extend the statute of limitations for sexual assault cases if there is DNA evidence and the crime is reported within 5 years of the offense.
3. The Hartford Courant, April 12, 2000. "DNA testing gives police a valuable tool"  
Response from local Police Chief on editorial against a proposal to collect DNA samples for all criminal arrests. Quote: "Law enforcement has as its only objective the match of a suspect to a piece of evidence at a crime scene. We are not interested in genetics. Is The Courant taking a position that responsible guidelines cannot be established so that DNA will not be used for any other purpose?"

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4. The Ottawa Sun, April 12, 2000. "Delays put nation at risk RCMP doing best it can but lack of funding for quick DNA testing leaves criminals at large".

Auditor General calls for significant funding improvements for Canadian DNA analysis. DNA analysis results can take up to 7.5 months - delays are resulting in criminals being acquitted and increasing numbers of crime victims.

5. Chicago Tribune, April 12, 2000. "The most unlikely death-penalty critics".

Pat Robertson surprises many by his announcement that a moratorium on the death penalty "would indeed be very appropriate." Some polls also indicate a declining rate of support for the death penalty and increasing suspicions that innocent people have been executed.

6. Associated Press State & Local Wire, April 11, 2000. "ACLU urges governor to stop executions in Louisiana".

Letter from ACLU cites exonerating DNA evidence as a reason for moratorium. Governor responded that he will "continue to be careful" in his review of death sentences.

7. Associated Press State & Local Wire, April 11, 2000. "Court refuses child killer access to DNA 12 years after trial"

New Jersey court rules that the DNA materials were available at the first trial and subsequent appeals - since the defense did not ask for access in earlier trial or appeals, they cannot "forever seek to have post-judgement tests conducted in hopes that something beneficial will result." However, the DNA evidence will be maintained and could be tested if a new trial is granted based on new evidence.

8. Associated Press, April 11, 2000. "Tests that clear a man of a rape 19 years ago implicate his brother" DNA sample on file in Virginia implicates brother of former Louisiana inmate whose exoneration (based on the DNA evidence) has made national headlines and stirred death penalty and post-conviction DNA testing debates. Freed inmate is suspected of knowing his brother was the true rapist.

9. University Wire, April 11, 2000. "House Speaker gives talk on political ethics at Notre Dame".

US House Speaker Hastert says in a speech that there should be some guarantees to DNA testing (post-conviction).

10. AAP Newsfeed, April 10, 2000. "New South Wales: Up to eight people who decline DNA test fit rapist profile".

Australian town solicits DNA samples from town males in search of rapist. Fewer than 2 dozen have declined to donate a sample. Police expect to test a total of 600. Residents believe giving a DNA sample to help police catch the rapist is their civic duty.

11. Atlanta Journal and Constitution, April 10, 2000. "Editorial: Justice denied to Georgia's poor"

Georgia's all-felons DNA testing bill (now law) is faulted for not addressing post-conviction DNA testing. Urges Georgia Legislature to support federal post-conviction bills.

12. Charleston Daily Mail, April 10, 2000. "Bad news on the death penalty -- Far too often, we are executing innocent people" By George Will.

Discussion centers on "Actual Innocence". Mentions US Senator Leahy's post-conviction DNA testing bill.

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13. Daily Mail (London), April 10, 2000. "Thousands of criminals go free as DNA funds dry up"  
Scottish police forces are unable to pay for routine DNA testing. Police believe many offenders are not being caught because evidence for less serious crimes (such as house breaking and car theft) cannot be analyzed.
14. Press Association Newsfile, April 10, 2000. "Fifth anniversary of crime-busting DNA database"  
Great Britain celebrates 5 years of criminal DNA database. Statistics from the article include: Database contains samples from 750,000 suspects; 600 matches are made each week; 68,000 suspects have been linked to crimes; connections have been made between 10,000 crimes; 40% chance of matching evidence from a crime scene with a database sample.
15. The New York Post, April 9, 2000. "Slay suspect bids to dump damning DNA tests"  
Man accused of multiple rapes and murders tries to suppress DNA evidence collected from saliva on a discarded coffee cup. Cup was collected at police station after suspect was picked up on petty theft.
16. Newsday (New York, NY), April 9, 2000. "Washington brief / A weekly report on people and issues in the Nation's capital / Push to solve crimes with DNA / Bill targets \$ 60m to analyze backlogged evidence"  
New York Police Commissioner lobbies members of Congress for DNA backlog money. US House Crime Subcommittee Chairman says his committee will act on DNA backlog bills in the next few weeks - "It will be accomplished this year. I'm counting on it." US Senator Schumer is drafting DNA backlog legislation for the Senate.
17. Tulsa World, April 9, 2000. "Beating the clock -- Is science outpacing the law?"  
Discusses need for extension of statute of limitations for rape cases. Oklahoma police nab suspects for a murder committed 20 years ago through a DNA database match, but if the crime had been rape prosecutors could not have tried the case. In 1998, fewer than 50% of the 93,000 rapes committed nationwide were solved.
18. Arkansas Democrat-Gazette, April 8, 2000. "State tracks inmate in 1st use of DNA database"  
Arkansas arrests first suspect based on a DNA database match. Hair samples found at burglary crime scene were used to identify suspect. Arkansas began collecting samples in early 1998. Database has 9,500 samples and is growing by 60 per week. Forensic Biology Supervisor hopes state will expand DNA collection requirements to other crimes (like burglary).
19. Charleston Gazette, April 8, 2000. "DNA evidence -- Growing police tool"  
Editorial urges West Virginia Members of Congress to support federal post-conviction bills.
20. Associated Press State & Local Wire, April 7, 2000. "Chicken dinner may provide key clues in 1993 restaurant slayings"  
In Illinois, a partially eaten chicken dinner found at mass murder crime scene is being used to build a genetic profile of the killer. So far, the genetic profile does not match any of the victims, employees, or past suspects. Illinois DNA database contains 17,000 samples which is now growing by 2,000 every year.

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21. Newsday (New York, NY), April 7, 2000. "Suffolk DA backing sex-crimes bills"  
Suffolk County, NY District Attorney is supporting NY Senate legislation to extend statute of limitations for sex crimes and legislation to require DNA samples from all convicted felons. NY House is working on its own version of these bills.

22. Chicago Tribune, April 7, 2000. "Louisiana defeats bill that lets convicts buy DNA tests"  
Legislation was passed unanimously by the Senate but the House said it could not be considered in this special session, which was called by the Governor to address fiscal issues. The Governor will appoint a special study commission to make a recommendation on a bill that will probably be considered in next year's regular session (although another special session could be called to address this issue).

23. Chicago Tribune, April 6, 2000. "Bill seeks 7-year halt to all US executions; Rep. Jackson would mandate use of DNA"  
US Rep. Jesse Jackson (D-IL) has introduced legislation that requires a moratorium on executions until the US Attorney General certifies that inmates have had a "full and fair" opportunity to prove their innocence through DNA testing. US Senator Feingold (D-WI) plans to introduce a companion bill in Senate.

24. The Christian Science Monitor, April 13, 2000. "Willing to give up their DNA, but privacy too?"  
Australian town men give up DNA for rape investigation. US Attorney General has not taken a position on DNA "dragnetting". Article questions individual privacy and raises concerns on how samples are shared and stored.

### **Genetic Privacy**

25. The Vancouver Sun, April 13, 2000. "Conference on human genome ends on sobering note of ethics"  
Attendees of Human Genome Organization conference are reminded of times when science went to far - like eugenics programs undertaken in Nazi Germany.

26. CTV Television, April 12, 2000. "GUEST: Frank Ogden, Futurist"  
"Futurist" is attempting to trademark his DNA in order to keep scientists from profiting from his genetic code.

27. Federal News Service, April 12, 2000. "Prepared Testimony of Rep. Asa Hutchinson before the House Government Reform Committee Subcommittee on Government Management, Information & Technology"  
Testimony on HR 4049 ("Privacy Commission Act"). Bill would establish a 17 member commission to study privacy issues over a period of 18 months. Suggests that "patchwork" of privacy laws being enacted internationally and at state level are confusing the issue. Mentions privacy needed for medical records in light of human genome breakthroughs.

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28. The Jerusalem Post, April 12, 2000. "Discoverer of DNA: genetic information is not used enough" Professor James Dewey Watson is more concerned by the under-use of genetic information rather than the overuse or misuse of it. Suggests laws to safeguard genetic information from misuse, but scientists should not back off of using the knowledge to find ways to detect disease. Also says fears about genetic engineering of foods are foolish.

29. The Washington Times, April 12, 2000. "No policy compass at the DNA frontier" New privacy laws are needed in advent of availability of genetic information - especially to safeguard against insurance companies and employers using the information. Industry also needs regulations on marketing and advertising so that fear and worry are not exploited.