

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 21, 2000 DNA legislative and media report is 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. Please see the appropriate media website for the newspaper articles.

COMMENTS

EXPANSION

A Colorado bill would clarify that juvenile sex offenders must submit DNA samples (article #12)
Arizona's all-felons bill has been enacted (article #19)

Australia achieves success with its first DNA "dragnetting" investigation (articles 9 & 15)
New York court is considering allowing DNA evidence that police admit was gained deceptively (article #23).

FUNDING

New York Mayor Giuliani proposed budget includes DNA funding (article #22)
Illinois has appropriated over \$4 million for DNA uses (article #21)

POST CONVICTION TESTING

See articles 5, 7, 8, 10, 11, 13, 16, 17, 19 & 20.

STATE LEGISLATION

Forensic DNA

1. New York AB 10862 -- Requires hospitals to provide DNA testing of newborns or take blood samples from newborns for future DNA testing

NEWS ARTICLES

Forensic DNA

1. "China's drive to catch kidnapers uncovers trade in women, babies." AP Worldstream, April 19, 2000.

China is using DNA databases to determine the parents of children rescued from kidnapers and sold in slavery. When 42 children were rescued in January, hundreds of families turned up looking for missing sons and daughters, and DNA tests helped police make easy matches.

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2. "Giuliani Budget Plan Scales Back Tax Cuts and Restores Spending." The New York Times, April 19, 2000.

Mayor Giuliani's proposed budget includes \$348 million for programs at Bellevue Hospital Center – including the police DNA lab that operates at the facility.

3. No Title. The Associated Press State & Local Wire, April 19, 2000.

In Wisconsin, is found guilty of a 1971 murder – verdict due largely to newly analyzed DNA evidence. Man had been a suspect, but never charged.

4. "DNA evidence introduced at Birmingham retrial." The Associated Press State & Local Wire, April 19, 2000.

DNA evidence introduced in a trial in Birmingham, Arkansas, said to have odds of 1 in 200 billion of belonging to someone other than the accused. Defense is questioning the accuracy of the method used by police to analyze the DNA.

5. No Title. The Associated Press State & Local Wire April 19, 2000.

2 men who were freed on DNA evidence after serving 12 years are seeking \$100 million in damages from Oklahoma law enforcement officials and jailhouse informants.

6. "Blood was another man's, but prosecution proceeds." The Associated Press State & Local Wire April 19, 2000.

California prosecutors forge ahead with murder trial despite test results on DNA evidence that do not match the suspect. Prosecutors believe the remaining evidence still points to the suspect as the killer and investigators are scrambling to explain the presence unknown DNA.

7. "Wrongly imprisoned man blames system." The Associated Press State & Local Wire April 19, 2000.

Louisiana man who was freed on DNA evidence after serving 19 years has filed a federal lawsuit. However, he had signed a waiver before the DNA tests were conducted releasing the Sheriff from liability (but waiver does not cover federal civil rights). One of DA's being sued claims Barry Scheck's office drafted the waiver.

8. "Inmate's lawyers say DNA test could clear client." The Associated Press State & Local Wire April 19.

Governor of Virginia is considering a death row inmates request for DNA analysis on evidence. The inmate, who is mildly retarded, was originally convicted in 1982 and had confessed to the murder.

9. "Man charged with rape after Australia's first mass DNA screening." Agence France Press, April 18, 2000.

DNA "dragnetting" in small Australian town results in the arrest of a town resident. No information yet as to whether suspect participated in the mass screening. All but 12 of town's 600 men volunteered for test. Police superintendent says that the dragnetting played a vital role in investigating the attack.

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10. "Ranks of death penalty critics growing." The Houston Chronicle, April 18, 2000.
Review of why notable conservatives, like Pat Robertson, are speaking out against the death penalty. In 1997, prosecutors asked a judge to destroy DNA evidence that possibly could have cleared an inmate in Virginia. "We like to think that prosecutors are supposed to find out the truth, but mainly we pay them to get convictions."

11. "Convicted killer Breest seeks DNA tests to prove innocence." The Associated Press State & Local Wire, April 17, 2000.

Convicted man petitions for access to DNA tests to prove his innocence. It is uncertain if the evidence still exists or where it is stored. New Hampshire Attorney General's office has not responded to the petition yet.

12. "Editorial -- No lifetime brand" The Denver Post, April 17, 2000.
Editorial disagrees with proposal in Colorado's House Bill 1317 to require juvenile sex offenders to register for the rest of their lives, but agrees with provisions requiring such offenders to submit DNA samples for the database.

13. "Alive and Kicking." The New Republic, April 17, 2000.
Author believes debate over death penalty will slowly dissipate after current glut of post conviction analysis is settled. Current DNA technology will make possible conviction errors more isolated, and the public will be more assured that only the truly guilty are executed – "For if the potential for wrongful execution stokes public outrage, the potential for a near perfect DNA match helps mollify it."

14. "West crime drop bucks the trend." Western Daily Press, April 17, 2000.
The Avon and Somerset area (England) will be putting considerably more money (over 800,000 pounds) into forensic sciences and expects this funding to allow the police to take DNA samples from everyone charged with a "notifiable offence."

15. "Fed: Mass DNA screenings OK if voluntary, says Williams." AAP Newsfeed, April 16, 2000.
Federal government of Australia says the recent DNA dragnetting case was all voluntary and therefore was not of concern. The government says that the criminal DNA database being planned for Australia – for convicted criminals and people charged with "serious" crimes -- will need to be overseen to protect people's privacy.

16. The New York Times, April 16, 2000. "The Nation; Look Who's Questioning The Death Penalty"
Oregon Republican Senator (Gordon Smith) is expected to announce that he will cosponsor Senator Leahy's post-conviction bill. DNA testing to help acquit unjustly convicted inmates is a cornerstone of the current death penalty debate.

17. "Deadly Mistakes in Name of Justice." The San Francisco Chronicle, April 16, 2000.
California man who was recently freed on DNA evidence after 20 years may have been executed if jury had not deadlocked when the prosecution sought the death penalty. So far, 64 people have been cleared through DNA evidence.

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18. "Half-eaten kebab is vital clue to Lawrence killers." Sunday Mirror, April 16, 2000.
A piece of kebab from a crime scene that was later frozen in liquid nitrogen will be tested for DNA evidence and London police hope to make a match with a suspect. Crime (murder) occurred in 1993.
19. "Legislators balk at late push on tobacco settlement." The Associated Press State & Local Wire, April 15, 2000.
Arizona Legislature has approved a bill to allow prisoners to request post conviction testing, and to require DNA samples from an expanded base of criminals (including burglars and armed robbers).
20. "Men falsely imprisoned seeking \$1 million each." The Associated Press State & Local Wire, April 15, 2000.
The Alabama Legislature is considering a bill that would award \$1 million each to two men who were imprisoned for 13.5 years for a kidnapping and rape before DNA evidence exonerated them.
21. No Title. The Associated Press State & Local Wire, April 15, 2000.
Illinois appropriates \$4.3 million to add DNA testing capabilities and address backlogs.
22. "DNA test leads to charge in 1988 killing." Austin American-Statesman, April 15, 2000.
A man long suspected in a 1988 murder has been arrested on newly analyzed DNA evidence. The Texas Department of Public Safety said a new genetic analysis technique was used to link the suspect to the crime, but declined to comment on the technique on the grounds that it would reveal the nature of the evidence.
23. "Cop talks of DNA trickery against serial kill suspect." Daily News (New York), April 15, 2000.
Suspected serial killer is attempting to have DNA evidence suppressed that was collected from discarded coffee cup. New York police had originally attempted to obtain DNA sample by pretending to be a doctor and asked the suspect to participate in tuberculosis research. The man agreed to participate in the study, but then declined to sign the waiver (which, among other things, said his sample would be searched against a DNA database). Prosecutors argue that courts have previously allowed cops to obtain confessions by deception.
24. "Court: DNA can carry conviction; Ruling against Northwest Hills." Austin American-Statesman, April 14, 2000.
A Texas 3rd Court of Appeals unanimously agrees that DNA evidence alone is sufficient evidence for a jury to convict a criminal suspect. Texas court relied heavily on a previous New York state court ruling on the same issue.

Genetic Privacy

25. "Genetic Correctness." The Washington Post, April 18, 2000.
There is a great deal of confusion in laws regarding genetic privacy at both the federal and state levels. For example, the President's recent executive order prohibits employment discrimination based on a genetic predisposition, but allows the use of test results that reveal actual health conditions. However, the Americans with Disabilities Act applies to actual conditions, but may or may not apply to a predisposition.

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26. "Genetic research could doom insurance." The Gazette (Montreal), April 17, 2000.
Discusses pros and cons of sharing genetic information with insurance companies. Points out that insurance companies are based on risk and a wide spread use of genetic testing would result in individuals who know their at high risk to load up on insurance. Such a situation could put insurance out of business.
27. "With genetic testing comes discrimination." Scripps Howard News Service, April 17, 2000.
Some states and localities allow medical records to be bought and sold over the Internet – could result in insurance companies obtaining genetic test information. Urges Congress to completely ban the release and sale of private medical information.
28. "Genetic testing may encourage workplace bias." The Buffalo News, April 15, 2000.
National Partnership for Women and Families has published "What Everywoman Should Know About Genetic Discrimination." Many women have already faced genetic discrimination problems due to breast cancer screening tests. As genetic testing becomes cheaper and more common, genetic discrimination is also growing. Says that 23 states have enacted laws to curb genetic discrimination.

Agriculture

29. Overview of legislative and public relations efforts of Biotechnology Industry Organization. Says the group's membership is too diverse for members to be well represented.
30. Soybean growers found to save \$220 million in annual weed control costs by using genetically modified plants.
31. Trader Joe has reversed its decision to stop selling genetically modified products. Says there is no way to verify that product has been modified.

Paternity

32. Pennsylvania Senate Committee has passed a bill that would allow men required to pay child support to use DNA evidence to challenge paternity.

Industry News

33. Washington University experts are warning the public to be wary of Celera's announcement of decoding the human genome.
34. DNA kits to be sold to British adoption agencies.
35. Singapore plans to spend billions to develop the life sciences industry. Might try to develop niche for customized genetic therapy for Asians.
36. International group of researchers has called for a worldwide network of DNA databases containing genetic samples of every endangered animal on earth.