

## 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 28, 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: <http://www.ncsl.org/public/sitesleg.htm>. Please see the appropriate media website for the newspaper articles.

### COMMENTS

Legislation in South Carolina to expand DNA collection requirements has finally been passed by the State Senate, after languishing for over a year in committee. The bill passed the House in 1999, and now needs concurrence. Meanwhile, Florida's legislature has unanimously enacted a bill that will allow DNA collection from burglars. New Mexico has joined a small but growing list of states in issuing an indictment for an unnamed rapist based on a genetic profile.

Colorado is preparing to build new DNA labs to assist in meeting statewide analysis demands, but plans for expanded crime lab abilities in Minnesota may need to be scaled down if the State House continues to refuse full funding. The recent capture of a serial killer in Washington State has brought DNA analysis and backlog issues to the attention of area reporters.

There continue to be several articles and commentaries in newspapers around the country addressing the death penalty and the need for post conviction DNA testing. Senator Leahy's post conviction bill is mentioned in most of these articles.

### STATE LEGISLATION

#### Forensic DNA

1. Illinois HB 4437 - 2001 appropriations bill allocates \$2.3 million to State Police for DNA analysis processing.
2. New York SB 4442 -- Requires hospitals to provide DNA testing of newborns or take blood samples from newborns for future DNA testing.
3. South Carolina HB 3120 - Expands DNA sampling requirements to included offenses of homicide or assault and battery committed against a child by a person sixteen years of age or older.

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### NEWS ARTICLES

#### Forensic DNA

1. "A Capital Issue: The politics of the death penalty." National Review, May 1, 2000.  
Discusses the politics of the death penalty and gives suggestions for the Bush campaign on how to address the issue. Mentions that some supporters of the death penalty could argue that DNA evidence will make convictions more certain and death penalties less risky.
2. "Pueblo, Montrose to add DNA -testing labs." The Associated Press State & Local Wire, April 25, 2000.  
The Colorado Bureau of Investigation (CBI) will establish DNA labs in Pueblo and Montrose, Colorado. CBI currently does the analysis work for 167 police agencies, 62 sheriffs departments, and 22 district attorney's offices. Denver is the only police department in the state with its own DNA analysis capability.
3. "Florida man charged with murder in five-year-old slaying." The Associated Press State & Local Wire, April 5, 2000.  
Iowa officials believe they have found the suspect for a murder committed in 1995. DNA match was made to a Florida man by using the FBI's database.
4. "Private lab hot on the trail of police, public DNA work." The London Free Press, April 25, 2000.  
A Toronto lab (Maxxam Analytics) is the first private lab in Canada to gain government accreditation. The Canadian Auditor General recently reported that government crime labs are seriously backlogged with DNA samples, and private labs are expected to become more involved in criminal cases over the coming years.
5. "Burglars' DNA likely to go on file." St. Petersburg Times, April 25, 2000.  
Florida's House and Senate unanimously passed legislation to include burglars in the DNA database. Gov. Jeb Bush is expected to sign the bill. The bill also allows collection from criminals under community supervision, but not necessarily still in prison.
6. "Death edict for the guilty only." The Washington Times, April 25, 2000.  
Commentary on death penalties and access to post-conviction DNA testing. Gives details of provisions in Senator Leahy's post-conviction bill and states that the bill would "end the blight in death penalty prosecutions."
7. "State crime labs struggle with huge backlogs." The Seattle Times, April 23, 2000.  
Spokane authorities that recently arrested a suspected serial killer based on DNA evidence, "skipped over" the backlogged, state-run crime labs in favor of more costlier but quicker private labs. Sheriff's Department spent \$65,000 for overnight tests. State lab says they could have postponed other work and expedited the evidence, given the chance. Crime lab officials recently negotiated with the state employee's union to outsource 15,000 samples for analysis.

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8. "Sunday Legislative Report." Star Tribune (Minneapolis, MN), April 23, 2000.  
Minnesota Governor has asked for \$58 million to build new facilities (including a crime lab) for the Bureau of Criminal Apprehension. The Senate supports full funding but the House is only agreeing to \$30 million - the bill is in conference.
9. "DNA testing Good or bad for justice?" The Sunday Gazette Mail, April 23, 2000.  
Describes how DNA evidence is being used by prosecutors to reopen unsolved cases, and by defense attorneys to free the wrongfully convicted. Alameda County (CA) District Attorney and forensic scientist say that DNA tools are good, but are currently being used by people who have ulterior motives of undermining the death penalty. Both share concerns that legislatures will pass post-conviction analysis bills that are too broad and would allow defense attorneys to tie-up the system.
10. "Serial killer probe relies on old-fashioned police work, DNA technology." The Associate Press State & Local Wire, April 24, 2000.  
Man who is a suspected serial killer (with at least nine victims) has been arrested on DNA evidence found in his car from one of his victims from a 1997 murder.
11. "DNA Fingerprinting May Become More Widespread for Police in Pueblo, Colo." The Pueblo Chieftain, April 24, 2000.  
Colorado Bureau of Investigation plans to open a DNA lab at the Pueblo complex. In-depth look at the various sources from which law enforcement can collect DNA samples and how DNA technology is "revolutionizing" DNA work. Also mentions the growing need for additional public funding.
12. "DNA wizardry solves crimes, destroys myths, sheds light on ancient past." Agence France Presse, April 23, 2000.  
A look at the various uses for DNA technology - from solving historical mysteries (such as the true fate of Louis XVII), to preventing the illegal sale of oil consignments and certain meats, to paternity and solving crimes. In February France announced plans to establish a forensic DNA database.
13. "DNA test results may be key factor in trial Hair found in suspect's car belonged to 9-year-old victim, prosecutors say." Arkansas Democrat-Gazette, April 23, 2000.  
Arkansas plans trial for a man arrested for a 1991 crime. DNA evidence extracted from hair found in his car has a 99.6% likelihood of belonging to his 9-year-old victim. The defense attorney has promised a courtroom "bombshell" that will refute the DNA evidence - but has given no further clues.
14. "The DNA expert who caught her own killer." Mail on Sunday, April 23, 2000.  
DNA samples from a murder/rape victim's fingernails have been analyzed and matched with the DNA from a convicted sex offender. The victim, killed in 1985, was an important DNA pioneer and her former colleagues have contributed significantly to the technology that has helped to catch her killer.

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15. "New trial ordered in '94 killing." The Richmond Times Dispatch, April 22, 2000.  
The Virginia Supreme Court has upheld the sentence of a man who is believed to be the first person sentenced to death as a result of a "cold hit" from the DNA database. Man was already serving 100 years for other rapes when the DNA match was made.
16. "N.M. hopes DNA saves rape cases." Albuquerque Tribune, April 21, 2000.  
Albuquerque grand jury has indicted an unknown man on 44 counts for raping nine women. New Mexico joins Wisconsin, New York, and California in indicting John Doe's for serial rapes. As yet, none of these rapists have been identified, and the indictments have not been legally tested. Several states around the country are considering extending or eliminating the statute of limitations for rapes.
17. "Gilmore should allow DNA test to show proof." Daily Press, April 21, 2000.  
Virginia Governor Gilmore is criticized for not acting on a request that would allow an inmate to have access to post conviction DNA analysis. Earlier DNA tests showed that the inmate's DNA were on the victim's bodies, but also showed the presence of unknown DNA.
18. "A dribbling idiot; saliva DNA traps Balaclava robber." The Mirror, April 21, 2000.  
Robber in England is nabbed after DNA evidence is taken from saliva found on his discarded woolen hat.
19. "DNA leaves unique genetic signature." The Seattle Times, April 21, 2000.  
Spokane authorities had considered filing charges against the unknown serial killer before they had a suspect. The suspect currently in custody is believed to have murdered at least 12 women and has been definitively linked to at least 9 victims through DNA evidence. DNA evidence was just about the only evidence police had.
20. "Grand jury indicts the DNA profile of unknown rapist." Albuquerque Tribune, April 20, 2000.  
District Court grand jury in New Mexico has indicted an unknown man for rapes dating back to 1991 based on DNA evidence. Wisconsin legislature is considering two bills to address this issue: one would eliminate the statute of limitations for sex crimes, and another would specifically allow authorities to obtain warrants or probable-cause determinations solely with the use of a DNA profile.
21. "The Vain Search for Deadly Accuracy." The Washington Post, April 20, 2000.  
Author argues for abolishing the death penalty and discusses Senator Leahy's bill. Says the DNA testing is "just the latest tool in mankind's futile march to perfection in capital punishment."
22. "Important safeguards to protect the innocent." The Seattle Times, April 24, 2000.  
Article discusses Senator Leahy's post-conviction bill and its provision. Bill passed by Washington State this year allows DNA testing for people sentenced to death or life in prison if they did not have access to DNA testing at the time of their court case, or if the evidence was not admissible. Urges support of the Leahy bill which would be broader and apply to all criminal cases.

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### **Genetic Privacy**

23. "The Future in Your Genes." Money, May/June 2000.  
Discusses potential problems of genetic discrimination. Reports that as of 1999, 28 states have barred genetic discrimination with health insurance. Lays out steps to follow to protect yourself if you are interested in pursuing a genetic test.

### **Paternity**

24. In many states, current law requires a man to continue paying child support even if subsequent DNA tests prove he is not the biological parent. Legislators are beginning to consider bills to provide relief.