

DNA LEGISLATION & NEWS

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The June 30, 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

Ontario may consider collecting DNA samples from all arrestees and Hong Kong has OK'd collection from suspects. The DNA database legislation in New South Wales, Australia may be in jeopardy and Estonia will be getting its first DNA crime lab thanks to EU support.

DNA databases in Virginia and Indiana get "cold hits" on unsolved murders. DNA technology is used in New York, Tennessee and Maryland to link multiple rapes to the same perpetrators, and charges against men in Missouri and Maryland are dropped based on DNA test results.

Republicans in Congress are drafting their own version of a post conviction DNA bill which would also authorize a grant to states for all types of DNA analysis. States around the nation continue to grapple with post conviction access to DNA testing.

STATE LEGISLATION

Forensic

1. Massachusetts SB 2210 – Appropriates \$387,000 in federal funds to "State Police – Boston Police DNA Crime Lab Improvements."

Paternity

2. New Jersey SB 1478 – Provides relief from child support in certain instances if genetic tests prove that the man is not the biological father.

NEWS ARTICLES

1. "Jury Deliberating In Queens Serial Rape Case." Newsday (New York), June 28, 2000. Prosecutors in New York City say they can tie a suspected rapist to five separate rapes through DNA evidence. The defense attorney is questioning the accuracy of the DNA fingerprint, noting that the DNA expert only testified that it "could" have come from the suspect.

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2. "Legal experts debate death penalty." St. Petersburg Times, June 28, 2000.
A Florida State Attorney and former State Supreme Court Judge debated the death penalty at a local meeting. The judge pointed out that 5 death row inmates in Illinois were proven innocent through DNA tests, and concluded that the men would have been executed if the technology had not been available. The State Attorney argued that no inmate in Pinellas has raised a DNA appeal on a capital case, but that if it ever became an issue, they would do the test "in a heartbeat."
3. "Lawyers seek evidence that would exonerate death row inmate." The Associated Press State & Local Wire, June 27, 2000.
Lawyers for a death row inmate in Virginia are hoping DNA testing of old evidence will clear their client. The state is arguing that testing of semen found on the victim has already proven the inmate committed the crime, and in the face of additional, overwhelming evidence, testing of the old crime scene evidence is unnecessary. The defense wants the victim's fingernails and a washcloth found near the body to be tested as well. A man from New York has offered a \$50,000 reward for anyone supplying new evidence that would free the inmate, and 200 Italian legislators have signed a petition asking Virginia for a new trial.
4. "Prisoner hopeful after new DNA testing." The Associated Press State & Local Wire, June 27, 2000.
An inmate in Kentucky hopes to be the first person released from prison in that state based on new DNA evidence. Recent tests have proven that hairs found in a stocking mask used in the rape and attempted rape of which the inmate is accused, do not belong to him. The mask was a key piece of evidence in the trial, but the victims remain convinced the man is their rapist. The prosecution is waiting to see the DNA test results in writing and criticized the Innocence Project for releasing the test results to the media before giving them to the state.
5. "Hong Kong police, graft watchdog get power to take DNA samples." BBC Worldwide Monitoring, June 27, 2000.
Hong Kong's Legislative Council has passed a law giving the police and the Independent Commission Against Corruption authority to collect DNA samples from suspects. Some fear that the information collected will be abused by Beijing.
6. "Police arrest 70 suspected human traders." BBC Summary of World Broadcasts, June 27, 2000.
Police in Shanghai recently rescued 51 women and 68 children from suspected human traders. DNA tests were used to reunite children whose backgrounds were unknown with the rightful parents.
7. "DNA Leads To Arrest In Old Murder Case." The Calgary Sun, June 27, 2000.
Police in British Columbia, Canada have solved a 19 year-old murder case by using DNA technology to test old crime scene evidence against that of a man who had been considered a primary suspect, but against whom there was not enough evidence to level charges.
8. "Cold Case Unit Takes On Tough Ones." Seattle Post-Intelligencer, June 26, 2000.
The Seattle Interim Police Chief will be asking the City Council for an additional \$250,000 for a 5-member cold case unit. The unit will use DNA tests, among examination of other forensic evidence, to reopen unsolved crimes. DNA testing is not useful for some cases because physical evidence was not kept or stored properly until the last decade.

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9. "Police Refuse To Take DNA Tests For Database." The Independent (London), June 26, 2000.
English police are being asked to submit samples for DNA profiles so that investigators may quickly eliminate officers who may have accidentally contaminated crime scene evidence. However, many officers are refusing to give samples based on the fear that they will be tested for drugs or be used by the Child Support Agency. Officers have been assured that this will not happen, and have been further assured that their sample will not be checked against the criminal database or used in any disciplinary inquiry.

10. "Jury's Out On New Form Of DNA Analysis." The Record (Bergen, NJ), June 26, 2000.
Mitochondrial DNA is being used for the first time in New York in a murder case. Experts still warn that mitochondrial analysis is less accurate than nuclear analysis, and some say using it in criminal trials is premature. New York prosecutors intend to move ahead with the case despite these concerns.

11. "Evidence Retention Policies Vary." The Richmond Times-Dispatch, June 26, 2000.
In Virginia, evidence retention policies vary greatly from court to court, and Paul Ferrara of the Division of Forensic Sciences says he hope the General Assembly will address the issue soon. Circuit courts are required to keep trial evidence until appeals are exhausted, but may destroy them afterwards – despite any subsequent habeas corpus appeals. Evidence not used in court is not protected at all. The Virginia State Crime Commission is currently studying DNA testing issues and will likely take up this problem, as well as the 21-day rule for new evidence.

12. "DNA Tests To Be Done On Slides." The Richmond Times-Dispatch, June 26, 2000.
The states Forensic Science Division is conducting DNA tests on slides of evidence taken from a crime scene 18 years ago. Defense lawyers hope the results will free their client, whose sentence was commuted in 1994 from death to life in prison when DNA tests suggested – but did not conclusively prove – that he did not commit the crime. Depending on how well the evidence was preserved, the tests could be completed within a week, or over several weeks.

13. "Gov. Ryan Urges Funds For DNA Testing." State Net Capitol Journal – Illinois, June 26, 2000.
Illinois Governor Ryan testified before US House and Senate Committees to urge enactment of a post-conviction bill (Senator Leahy's Innocence Protection Act) and to endorse funding for a federal grant program to help states begin to clear the DNA backlog.

14. "DNA From Suspects Urged By Tsubouchi." The Toronto Star, June 26, 2000.
Ontario's solicitor-general told the Ontario Association of Chiefs of Police that he believed DNA samples should be taken from all persons upon arrest. He said it could help in many cases where a person is originally arrested on a minor charge, but then progresses to more violent crimes. The Toronto Police Chief supports the idea and points out that the information can also be used to exonerate the innocent.

15. "Hutchinson opposed to nationwide moratorium on executions." The Associated Press State & Local Wire, June 25, 2000.
US. Rep. Asa Hutchison (R-Arkansas) has said he would oppose a death penalty moratorium, but supports increased funding for DNA testing and better legal assistance. Rep. Hutchison is a former prosecutor and member of the House Judiciary Committee.

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16. "Bickering over future of DNA database." AAP Newsfeed, June 25, 2000.
In New South Wales, Australia, the opposition party recently began pushing an amendment to legislation establishing a DNA database that would provide that the legislation expire in two years. The opposition claims the amendment would ensure adequate review and oversight of the database. The New South Wales Government is adamantly opposed to the amendment and the resulting fight may be jeopardizing the entire bill.
17. "Ryan Oks Law To Guard Evidence; Measure's Goal Is To Protect Against Police Tampering." Chicago Tribune, June 25, 2000.
Illinois Gov. Ryan has signed a bill that requires laws enforcement officials to preserve evidence in murder cases permanently and in sex offense cases for 25 years – violation are punishable by 3 years in prison. The bill passed the legislature easily but ran into opposition before it reached the Governor's desk. Law enforcement was concerned that the definition of physical evidence would place too much of a burden on police and prosecutors (Ryan agreed that genetic evidence was the true intent). Ryan also wrote that the bill contained vague language that made "good-faith compliance and enforcement difficult."
18. "Supervisors face difficult budget decisions." Ventura County Star (Ventura County, CA), June 25, 2000.
The Ventura County (California) Sheriff's Office is asking for \$1.06 million for overtime funding, crime lab equipment, and other expenses. However, the Sheriff says that the recommendation from the Chief Administrative Officer will result in a cut of \$8.5 million and the loss of 55 positions.
19. "DNA Evidence Links Rapist To Other Cases." The Tennessean, June 24, 2000.
Police in Tennessee are hunting for a man who has raped 4 women since 1994. The unidentified man has been linked to the rapes through DNA evidence.
20. "DNA Leads To Arrest in Va. Killing; Man Held in '92 Slaying." The Washington Post, June 24, 2000.
A "gruesome" unsolved slaying in Virginia has been recently linked to a man who was found through the state's DNA database. Evidence from the crime scene was run through the database a few years ago, but had no matches. Since then the database has grown by 120,000 samples and a recent search resulted in a match. The man was in jail for a robbery committed in 1996 when he stole \$660 from a gas station.
21. "DNA frees suspect in wife's slaying." The Associated Press State & Local Wire, June 23, 2000.
A Maryland man who has been in jail for nearly 9 months while awaiting trial for killing his estranged wife has recently been released. DNA test results have implicated another man, but the husband is still suspected as being involved. A detective in nearby DC learned of similarities between the Maryland case and a DC case, and obtained a sample from the suspect, which was a match in the Maryland case.
22. "Devine Recommends Saving DNA Evidence." Chicago Tribune, June 23, 2000.
Cook County (Illinois) State Attorney Devine has recommended that all DNA evidence in potential capital cases be tested and preserved until the case is "fully resolved." He also proposed that investigators be required to test all evidence before deciding whether to proceed in a capital punishment case. He also recommended more funding for the Illinois Crime Lab to carry out DNA testing.

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23. "A Bottom-Line Quest for Justice." Omaha World-Herald, June 23, 2000.
Editorial discusses the efforts of a local district attorney in California to review all of the offices old cases for instances where new DNA testing could uphold or overturn a conviction. The project is expected to result in a few dozen DNA tests at most. Author mentions that the Nebraska legislature will likely take up this issue of post conviction testing during the next session.
24. "DNA Evidence A Matter Of Law." The Virginian-Pilot (Norfolk, VA), June 23, 2000.
Virginia needs a more systematic method for deciding who does or does not get post conviction DNA tests. Requests for many post conviction tests are coming up at the last minute, which is poor timing for courts and governors who have to make 11th hour decisions, and for victim's families. Recommends that Congress or the legislature enact guidelines for when and how post conviction testing is done.
25. "Convicted man freed by DNA tests." The Associated Press State & Local Wire, June 22, 2000.
A man facing a 40-year prison sentence for rape was freed after DNA evidence forced the state to drop its case. The defense DNA expert testified that she analyzed three separate pieces of evidence from the crime scene and that she found a mix of unidentified DNA on each one that matched each other, but did not match the accused. The prosecutor has dismissed the case but has not exonerated the suspect.
26. "States face dilemma of DNA testing." The Advocate (Baton Rouge, LA), June 22, 2000.
Overview of state DNA collection efforts. DNA databases used to catch criminals have rapidly expanded in the past few years, but inmate access to post conviction testing has been lacking. Some states are even urging a move towards sampling all suspects, but ACLU advocates argue that DNA sampling is too intrusive and could supply government and insurance with health information that you do not want disclosed.
27. "Europe provides funds for DNA testing, voice identification in Estonia." BBC Worldwide Monitoring, June 22, 2000.
Estonia will be receiving 40 million kroons from the EU and provide 10 million kroons of its own to modernize the country's criminal research facilities. Launching a DNA laboratory is of prime importance to Estonia, and should be ready early next year.
28. "Making a buck off missing children." Scripps Howard News Service, June 22, 2000.
Article criticizes businesses that are making money off of parents' fears – recommends that instead of paying \$20 for a DNA kit, that parents could keep baby teeth in an air tight bag, or use a cotton swab on the inside of a child's mouth, let it air dry, then bag and freeze it.
29. "Ryan: 'Spirit Of Justice' Needed In Death Penalty; Hyde Agrees That He Would Support Limited Safeguards." Chicago Tribune, June 21, 2000.
US House Judiciary Chairman Henry Hyde (R-Illinois) agrees that the death penalty has problems, but is pushing for a much more narrowly focused bill than that offered by Reps. Delahunt and LaHood (companion bill to Sen. Leahy's Innocence Protection Act.). The Republican party version of a post conviction bill is still being drafted, but is expected to guarantee federal inmates a chance to introduce exculpatory DNA evidence, and would provide funding to states for DNA analysis (not limited to post conviction only.) Illinois Gov. Ryan was roundly criticized by Republican Judiciary Committee members for his moratorium on the death penalty.

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30. "Charge filed in old Vincennes slaying." The Courier-Journal (Louisville, KY), June 21, 2000.
A man serving an 89-year sentence for killing a 15 year old girl, was nabbed by Indiana's DNA database for also killing and raping a woman in 1987. The case was considered "cold" and the man had been questioned but never a suspect in the case.

Genetic Privacy

31. "Vermont prompts discussion of the implications of mapping human genome." The Associated Press State & Local Wire, June 27, 2000.
Vermont's Community Genetics and Ethics Project is the only statewide effort in the country to raise awareness about the Human Genome Project. The effort is aimed at helping residents understand the legal, social and ethical implications of genetic research.
32. "Democrats urge govt to support genetic laws." AAP Newsfeed, June 27, 2000.
Australian Democrats are urging the government to adopt legislation it has drafted to prevent genetic discrimination. Democrats do not expect the government to approve its bill, but hope that they will introduce and approve their own version of legislation.
33. "New genetic understanding could cause discrimination, experts say." The Associated Press, June 27, 2000.
Some experts worry that patients will not want to use emerging genetic technology for fear that the information will be shared with employers and insurance companies, who could save millions by not hiring certain people shown to be susceptible to certain diseases. Democrats in the Congress have introduced legislation, but the Republican majority has not acted upon it. A spokesman for the Speaker of the House has indicated that the Republicans will push "some version" of the bill.
34. "Ethical concerns raised." The Detroit News, June 27, 2000.
The mapping of the human genome raises complex ethical, legal and social issues – especially about genetic privacy and discrimination. Health and life insurance as well as employers may be prone to discriminating against people who have are highly susceptible to diseases that need expensive treatment.
35. "Decoding of Human Genome Underscores Urgent Need for Federal Action to Prevent Genetic Discrimination." US Newswire, June 26, 2000.
Urges Congress to take up legislation to protect against genetic discrimination. The US legal system is dangerously far behind the genetic revolution, and without adequate protection, American's fears of genetic information abuse will only escalate.
36. "Democrats urging vote on genetic discrimination bill." Gannett News Services, June 22, 2000.
A genetic discrimination bill that has been championed by Rep. Slaughter (D-New York) for five years is gaining signatures on a "discharge petition" that would allow it to be brought to the floor for a vote, despite the Republican leadership's opposition. Republicans are under political pressure from the insurance industry to narrow the scope of the bill.

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Paternity

37. "AKC To Require Dna Identification; Profiling Will Be Test Of Parentage." The Plain Dealer, June 23, 2000.

Beginning July 1, the American Kennel Club will require dogs that have sired more than seven litters in a lifetime or three litters in a calendar year to have DNA identification.