

## DNA LEGISLATION & NEWS

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The July 7, 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

New DNA database expansion laws have come into effect in Minnesota, Florida, and Canada. A province of Australia has OK'd DNA database legislation, and New Zealand is considering a law to require samples from burglary suspects. California's budget includes \$50 million for DNA analysis and the US Congress discussed additional backlog funding during floor debate. A new study shows 7 of 8 police chiefs prefer DNA testing for fingerprintable offenses.

New Jersey introduced 2 new bills this week, one on eliminating the statute of limitations, and another for post conviction testing. DNA evidence was used around the country to convict offenders and to exonerate the innocent. Access to post conviction DNA testing continues to be a favorite issue of the media, and a legislative solution in California is being negotiated with the Attorney General. Virginia and Indiana both received "cold hits" on unsolved crimes from their DNA database.

### STATE LEGISLATION

#### Forensic

1. New Jersey AB 1000 & SB -- appropriates \$300,000 for "Forensic DNA Laboratory" and \$200,000 for Megan's Law DNA Testing.
2. New Jersey AB 2658 – removes the statute of limitations for prosecution for any crime that is committed for which DNA evidence exists.
3. New Jersey AB 2678 – "New Jersey Innocence Protection Act of 2000" – requires judges to allow post conviction DNA testing if based on the determination that testing may produce "noncumulative, exculpatory evidence."

#### Paternity

4. New Jersey AB 2675 -- Allows relief from child support if genetic tests can prove the man did not father the child.

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### NEWS ARTICLES

#### Forensic DNA

1. "Officials Hit DNA Files Local Murderers' Samples Eyed For National Data Bank Deposit." The Ottawa Sun, July 5.  
The Canadian DNA database law has come into effect that allows police to collect DNA samples for over 40 offenses. A second index will contain samples from crime scenes. Samples may also be taken from those convicted of crimes for which they are already serving sentences. 28,000 are expected to be collected this year. Designated offenses include sexual offenses, murder, kidnapping and assault and battery.
2. "State's DNA database leads to arrest." The Associated Press State & Local Wire, July 4, 2000.  
Indiana's offender DNA database has lead to a "cold hit" on a 1996 unsolved rape case. The offender's profile was in the database for a prior sexual offense.
3. "Gore Tells Crowd Here That GOP Drug Plan Is "Phony". St. Louis Post-Dispatch, July 4.  
Gore emphasizes his support for access to post conviction DNA testing for criminals sentenced to death. He further recommended that any state that finds itself with the same record as Illinois would be well served to impose a similar moratorium until the situation was corrected.
4. "Possible Suspect In Slaying Of Boy, 8." The Washington Post, July 4, 2000.  
A Virginia man released on parole 12 days before the slaying of an 8 year-old boy is now being held as a prime suspect in the case after DNA from the crime scene was matched to the parolee's profile in the state's offender DNA database. The man's previous conviction included charges of sodomy and malicious wounding, and his records show a history of drug charges as well.
5. "DNA tests raise questions about murder case." The Associated Press State & Local Wire, July 3, 2000.  
Recent DNA tests on crime scene evidence seem to indicate that the man convicted of molesting and killing a Texas girl may be innocent. The criminal case inspired Texas' tough child molestation laws called "Ashley's Laws." The AG's office is not convinced of the man's innocence and may ask for a retest of the evidence.
6. "Evidence in rape kits untouched." The Atlanta Journal and Constitution, July 2, 2000.  
Georgia's Bureau of Investigation says that it does not have the resources to process many of the state's rape kits. One state hospital has over 250 samples and police say they do not have enough officers available to transport the kits.
7. "Access an issue in DNA testing; Post-conviction tests can be hard to obtain." The Fort Worth Star-Telegram, July 2, 2000.  
Post conviction DNA testing is usually hampered by an "ad hoc" system in which judges decide whether testing is appropriate and generally the support of district attorneys is necessary. Texas legislators intend to introduce new legislation next year to require judges to order post conviction DNA testing in certain narrow circumstances. Once legislator wants the proposal broadened to require a new trial if DNA test results are favorable to the inmate. DNA testing is estimated to be applicable in only 20 percent of all death row cases.

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8. "Debate Is Growing Over DNA Testing Rules Sought For Post-Conviction Requests." Sacramento Bee, July 2, 2000.  
A California inmate's request for post conviction DNA testing is bringing the issue to the spotlight in that state. Federal, state and local jurisdictions around the US are considering establishing guidelines to clarify when DNA testing may be done, and when it may be submitted as evidence for a new trial. A bill in California is being negotiated with the Attorney General's office.
9. "Innocence Project wants Louisville man freed based on new DNA evidence." The Associated Press State & Local Wire, July 1, 2000.  
A man in Kentucky is awaiting agreement from the prosecutor on his release after DNA tests show that the key evidence used in his conviction could not have belonged to him. 6 hairs found in a ski mask used by the rapist have identified someone else as the rapist.
10. "Judge Reserves Decision To Test Suspect's DNA." Buffalo News, July 1, 2000.  
A man currently serving 25 years for an attempted murder conviction is objecting to efforts to obtain his DNA sample for comparison against an unsolved rape/murder. Prosecutors say his DNA has already been shown to "match" that from the crime scene, but they need another sample for a more "sophisticated" analysis.
11. "Cons To Cough Up DNA." The Edmonton Sun, July 1, 2000.  
Canada's new DNA databank law will mean over 2,000 current federal prisoners will have to submit samples.
12. "Pewaukee man charged with attempted burglary." Milwaukee Sentinel Journal, July 1, 2000.  
A Minnesota man is charged with felony attempted burglary after DNA evidence is found to link him to the crime scene. The man left blood behind after he cut him self while breaking into the property.
13. "Davis Signs Biggest State Budget Ever." The San Francisco Chronicle, July 1, 2000.  
The recently passed California budget includes \$50 million for criminal justice DNA analysis
14. "In Minnesota, it's New Year's in July." The Star-Tribune (Minneapolis, MN), July 1, 2000  
A law passed in 1999 to expand the Minnesota DNA database came into effect on July 1. The law expands designated offenses to include kidnapping, additional sexual assaults, felony assault and battery, robbery and burglary. Collections are expected to increase to 4,000 samples a year – up from 1,000 a year previously.
15. "Helmetless Bikers Jubilant As New Laws Go Into Effect; Burglars Face DNA Sampling To Combat Rapes." Sun-Sentinel (Fort Lauderdale, FL), July 1, 2000.  
New Florida law allowing police to collect DNA samples from convicted burglars has come into effect. The Florida Department of Law Enforcement says that over half of their rapists begin as burglars and two-thirds of them are repeat offenders. The FDLE believes the measure will be instrumental in helping them solve crimes.

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16. "DNA testing leads to conviction in wild horse thefts." The Associated Press State & Local Wire, June 30.  
Prosecutors in Nevada have convicted a man of stealing three wild horses based on DNA testing. Tests showed that the horses belonged to a federally-protected wild herd in Montana.
17. "DNA collection from convicts expands with new law." The Associated Press State & Local Wire, June 30.  
Minnesota's new law requiring DNA samples from an expanded group of criminals is said to have "quietly" made its way through the legislature, which its sponsor takes as an indication that people are comfortable with the criminal database. Law enforcement is expected to collect up to 4,000 samples a year, plus an additional 4,000 from persons currently incarcerated. With a bigger pool of offenders, detectives expect to have more hits. The law provided \$125,000 for additional costs associated with the expanded collection.
18. "Appeals refuses to reconsider capital case." The Associated Press State & Local Wire, June 30.  
A federal appeals court has refused to hear a Virginia inmate's plea for a new hearing. The inmate is also asking for DNA testing which he believes will prove he is innocent. The prosecution objects to new DNA testing.
19. "DNA Conviction." City News Service, June 30, 2000.  
New testing of DNA found on a murder victim may exonerate a California inmate. A judge will decide in September whether to allow a new trial.
20. "Death Row Inmate's Case Turned Down." Daily Press, June 30, 2000.  
The US Supreme Court has refused to hear an appeal from an inmate in Virginia. Gov. Allen will now have to decide whether to intervene and allow DNA testing prior to the inmates scheduled execution.
21. "DNA testing law by end of year, says Hawkins." The Dominion (Wellington), June 30, 2000.  
New Zealand is expecting to have legislation introduced by the end of the year that will allow law enforcement to collect DNA samples from burglary suspects. Money for the testing was provided in the budget.
22. "5,400 NSW prisoners to be DNA tested." AAP Newsfeed, June 29, 2000.  
New South Wales (Australia) has enacted new laws to collect DNA samples from designated offenders. Over 5400 prisoners are expected to be tested first, beginning with the most serious offenders and those scheduled to be released soon.
23. "Mandatory DNA Sampling of Arrestees Urged by 7 of 8 Police Chiefs." Business Wire, June 29, 2000.  
According to a survey recently released by the International Association of Chiefs of Police, nearly 7 of 8 Police Chiefs believes DNA samples should be collected upon arrest. 86.8 percent of respondents replied "yes" to the question "do you believe arrestees should be required to provide DNA samples, in a manner similar to current fingerprinting practices?"

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24. "Suit says prosecutors withheld DNA evidence." Chicago Sun-Times, June 29, 2000.  
An Illinois man who served 8 years for rape before DNA evidence exonerated him. The suit alleges that the prosecution hid the results from the defense.
25. "Test The DNA, But Don't Discount Verdict Or Rulings." Daily Press, June 29, 2000.  
Post conviction DNA testing should be allowed, but should not discredit other overwhelming evidence often used to convict the inmate.
26. "Inmate linked to homicides from 1987, 1990." The Associated Press State & Local Wire, June 28, 2000.  
DNA evidence that was too small to be properly analyzed with previous technology has been analyzed now with new technology and has linked a suspect to two unsolved rapes. The suspect's DNA was obtained by a warrant for comparison.
27. "DNA laws overcome major hurdle." AAP Newsfeed, June 28, 2000.  
Legislation in New South Wales Australia is poised to be enacted after the opposition's attempt to require an 18 month review failed. Under the legislation, people suspected of committing a crime would either be asked to volunteer a **DNA** sample or potentially face a court order, while those arrested would be forced to provide a sample. Prisoners serving sentences of five years or more would also be forced to give a sample.

### Genetic Privacy

28. "DNA should stay private: insurers' group." The Gazette (Montreal), July 5, 2000.  
One of Canada's largest insurance groups (Independent Life Insurance Brokers of Canada) is urging the government to immediately move to protect Canadians from insurance companies that could require DNA testing prior to approving insurance coverage. There is currently a bill before Parliament (C-6) that could be amended to provide for genetic privacy.
29. "Genetic bias Law needed to protect us all." Tulsa World, July 3, 2000.  
Genetic discrimination could end up affecting more Americans than all other types of discrimination combined. Only 15 states currently have such protections for their residents. Congress is urged to follow suit and offer federal protections.
30. "Hearings Proposed On Genetic Mapping." Wisconsin State Journal, July 3, 2000.  
Legislators in Wisconsin are calling for a hearing and study on the possible negative effects that genetic mapping might have on the public.
31. "House panel OKs bill limiting financial use of medical data." The Advocate (Baton Rouge, LA), June 30, 2000.  
The US House of Representatives Banking Committee has approved legislation that would require financial institutions to obtain a customer's permission prior to disclosing medical information or using in credit decisions. The Committee Chairman Jim Leach (R-Iowa) sponsored the bill, but the vote was carried by the Democrats who all voted in support of the bill -- only 4 of the 18 present Republican members voted to pass it.

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32. "Genetic Protection Bill: Senate Votes To Prohibit Suits." American Health Line, June 30, 2000.  
The Senate has passed a Republican-backed measure to restrict the use of genetic information by insurance companies and group health plans. The Democrat's proposal, which was defeated in an earlier vote, would have additionally extended these restrictions to employers and would have permitted the right to sue for discrimination. The measure is currently part of a large appropriations package that the President has threatened to veto.
33. "Tempest in Iceland's gene pool." The Christian Science Monitor, June 30, 2000.  
The Iceland government's plan to use its largely homogenous population for genetic studies continues to be a source of debate. The data on Icelanders is being sold to a private company for research and, potentially, profit. The Icelandic Medical Association has called the study a serious invasion of personal privacy.

### **Paternity**

34. "To a testing question, there's no statute of limitation." The News Observer (Raleigh, NC), July 2, 2000.  
The Maryland Supreme Court has ruled that men may contest parentage (and child support) at any time, even if they did not contest parentage at previous hearings. This issue has received considerable attention since the advent of DNA technology and genetic tests.

## **CONGRESSIONAL RECORD**

### **Forensic DNA**

1. US House of Representatives, June 23, 2000. During floor discussion on the FY 2001 Justice Department bill, Representatives Green (WI) and Gilman (NY) ask the Justice Department Appropriations Chair Hal Rogers (KY) for additional work in conference on assistance to states for DNA backlog elimination. Rogers agrees it is an important issue and commits to further discussion for funding solutions.
2. US House of Representatives, June 22, 2000.  
Rep. Scott (VA) offers an amendment to specifically earmark \$10 million for DNA backlog elimination. Appropriations Subcommittee Chairman Rogers objects to the amendment – says that CITA is funded at \$130 million and DNA funds should be drawn from that pot of money. Lengthy discussion of DNA backlog problems.
3. US Senate, June 19, 2000.  
During debate on hate crimes legislation, Sen. Hatch (UT) suggests that hate crimes are already being addressed by state and local law enforcement, and that a better federal solution would be to assist states in clearing up DNA backlogs.

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4. US Senate, June 29, 2000.  
Senator Daschle (SD) discusses his proposal for protection from genetic discrimination.