

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 Applied Biosystems. As part of the firm's representation weekly reports are generated which identify recent state and federal legislation and news articles. Applied 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 July 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

Ohio expects to come online with CODIS in early 2001. In England, a "DNA dragnetting" effort has local police going door-to-door for volunteers. Meanwhile Scotland Yard is in a quandary as to how to handle dozens of DNA hits it is getting on people who legally should have been removed from the database.

A new crime lab will open soon in Kansas that is expected to assist with DNA analysis. Rhode Island's crime labs may receive a \$450,000 windfall in a federal appropriations bill.

In Pennsylvania, a post conviction DNA bill has the support of a Judiciary Committee Chairman and the Attorney General. California is reporting one of its first cases of an appeal for post conviction DNA testing from a death row inmate.

STATE LEGISLATION

No new state legislation

NEWS ARTICLES

Forensic DNA

1. "Fisher speaks in favor of DNA testing for death row inmates." The Associated Press State & Local Wire, July 25, 2000.

Pennsylvania Attorney General has stated his support for a bill before the state legislature that outlines procedures for post conviction testing decisions. Criteria for granting post conviction testing would include: the identity of the attacker must have been an issue at trial, and the testing must produce "materially relevant evidence." Additionally, the AG said that inmates, not the state, should pay for testing.

2. "DNA evidence, new testimony prompts plea for pardon." The Associated Press State & Local Wire, July 25, 2000.

Prosecutors, a District Judge and local Sheriff have joined with an inmate's defense lawyer in asking for the pardon of a man sentenced to 99 years for a rape in Texas. The Texas Board of Pardons will have to review the case and send its recommendation to Gov. George Bush. By law, Bush may only pardon those who have been recommended by the Board. DNA evidence found on a cigarette butt suggests that the inmate is innocent.

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3. "Greenleaf To Present DNA Bill To Assist Death-Row Inmates." The Morning Call (Allentown, PA), July 25, 2000.

A Pennsylvania State Senator is introducing legislation that would establish a process for determining which appeals may be granted post conviction DNA testing. The Senator, who is running for an open US Congress seat, is currently chairman of the Senate Judiciary Committee and has said that the bill has bipartisan support and could pass this year.

4. "Columbus police use DNA database to fight crime." University Wire, July 25, 2000. Ohio is due to come online with CODIS in spring of 2001, and local police hope the database will give them leads on several unsolved cases. Ohio currently has 28,000 samples ready to load into the system, and is expecting \$1.3 million in federal funding to help get the database online.

5. "Budget proposal includes \$ 200,000 for police laptops." The Providence Bulletin-Journal, July 24, 2000.

The Rhode Island State Crime lab is currently slated to receive \$450,000 in federal funding from the US Judiciary Appropriation bill before Congress. The funding for the crime lab was included in the Senate bill and must now go through a conference committee with the House and be signed by the President before the state can receive the funds.

6. "DNA testing still has shortfalls." University Wire, July 24, 2000.

Author questions the increasing reliance on DNA evidence to prove a person's guilt. Says that DNA should be used as a tool to enforce the law, but does not replace the law. DNA evidence can be "wrong" in circumstances of contamination, corruption, and human error. Not all DNA evidence should be relied upon absolutely to determine a person's guilt or innocence.

7. "Struggling to know when DNA testing is relevant." The San Francisco Examiner, July 23, 2000.

A man convicted of killing a family 15 years ago in California is now asking for DNA testing. This is one of the first post conviction DNA appeals in California involving death row inmate. The prosecution is arguing that the circumstantial evidence in this case is "overwhelming" and DNA testing would serve no point. A hearing on a post conviction DNA testing bill was held by an Assembly Committee last month.

8. "Freedom in a genetic fingerprint: DNA testing can overturn convictions, but there are serious iniquities in the law." Financial Times (London), July 22, 2000.

Overview of the complications associated with post conviction DNA testing. Tells the story of the Louisiana man who was exonerated by DNA testing after spending 18 years in prison. The same DNA sample that exonerated this man suggested that his brother is likely the rapist. Each state has its own rules regarding post conviction testing, and states also vary in their laws regarding evidence destruction. Both Gore and Bush have voiced some support for post conviction testing, but neither has directly mentioned support for US Senator Leahy's "Innocence Protection Act."

9. "250 DNA samples taken in Sara hunt." The Journal (Newcastle, UK), July 22, 2000.

In their bid to capture a murderer, local police in the UK are going door-to-door asking men to volunteer DNA samples for testing. Their goal is to eliminate as many suspects as possible. So far 250 samples have been submitted, and no one has yet to refuse to give a sample.

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10. "Once-tiny Anjura Technology at top of its game: Work for RCMP data bank is latest in long list of accomplishments." The Ottawa Citizen, July 22, 2000.

Article focuses on the company and technology behind the tracking system for Canada's new DNA database. The database is said to stand apart from similar databases in the US and UK because of its rapid and efficient turn-around of samples at a "significantly lower" cost. It tracks a sample at every step in the analysis process and was developed to provide both quality and privacy assurances.

11. "Could Dandruff Betray You?" St. Louis Post-Dispatch, July 22, 2000.

As the title suggests, this article worries that dandruff left behind as we move around in our daily lives could eventually be used against us. Author says that privacy invasions of this sort normally start off under the "guise" of public safety, but eventually become much larger problems. Author suggests dandruff could eventually be sampled for drug tests in the workplace or for paternity suits, without the owner's permission.

12. "Legal ruling prevents Yard charging 'dozens' of suspects linked by DNA." The Evening Standard (London), July 20, 2000.

Scotland Yard has recently been ordered to remove the DNA database profiles of suspects who were never charged with crimes. However, because of a three month backlog in "cleaning out" the database, police are still getting dozens of hits each week for significant offenses but are not legally permitted to make arrests based on the hits. The paper reports that when police received authority to collect samples from suspects at the end of last year, they immediately began to see "spectacular results."

13. "DNA Revives Rape Case; Investigation's Reopening Marks A First in County." The Washington Post, July 20, 2000.

A man in prison for kidnapping and sexual assault in Maryland has now been linked to two other rapes from seven years ago. The evidence from the old crime scenes had been stored on slides in a "cold" cases file. The match sounds like it was accomplished through a DNA database hit, but the article was not clear.

14. "KBI crime lab to open Aug. 21." The Kansas City Star, July 19, 2000.

The Kansas Bureau of Investigation will open a new regional crime lab on August 21 at the Kansas City Kansas Community College. DNA testing will be conducted at this lab and is expected to help the state's backlog of 2,453 cases. The state legislature appropriated \$1 million for renovation, salaries and equipment last year. The County appropriated \$60,000 and the school donated 3,000 square feet of classroom building. The operation of the lab is expected to cost the state \$445,000 annually.

Genetic Privacy

15. "Panel OKs au pair bill; Legislation would require child-care training." The Boston Herald, July 25, 2000.

The Massachusetts Speaker of the House has announced that he intends to take up a genetic privacy bill before the session ends this year. The bill would protect people from the disclosure of genetic test results without their consent.

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16. "DNA test results must be controlled by each person." St. Louis Post-Dispatch, July 25, 2000.

Calls genetic privacy the "ultimate stake in the fight between corporations and people for protection under the Bill of Rights" and that people should never be forced to submit DNA samples as a condition of commerce. Recommends that penalties for corporate genetic crimes should be equivalent to those of "dealing crack at an elementary school."

17. "Daschle seeks ban on genetic discrimination." The Associated Press State & Local Wire, July 20, 2000.

US Senate Minority Leader Daschle (D-SD) testified before a Senate committee urging the passage of a bill to ban insurers and employers from using genetic information to discriminate. He also released a letter from Celera warning that people are already foregoing genetic testing for fear that they will lose their job and/or insurance. Daschle said he believes the bill will pass, but not this year.

Paternity

18. DNA paternity testing is reshaping family courts as it is being used more and more to challenge child support orders. 250,000 paternity tests were performed in the US in 1998. A Maryland court recently ruled that there is no time limit on when a man can seek to challenge paternity through DNA testing.