

DNA LEGISLATION & NEWS

**Smith
Alling
Lane**

1025 Connecticut Ave. # 1021
Washington, D. C. 20036
202-258-2301

1102 Broadway Plaza # 403
Tacoma, WA 98402
253-627-1091

*A Professional Services Corporation
Governmental Affairs
Attorneys At Law*

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 August 4, 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

A bill to expand DNA collection requirements to include assault and battery will be introduced in Illinois – funding issues are being considered. An editorial in USA Today supports expanded DNA databases as a victim's rights issue. Maine and Texas received “cold hits” this week from their DNA databases. Janet Reno discussed the need for local and state law enforcement to participate in lobbying congress for better forensic DNA laws and funding. Paul Ferrara (VA) discussed the state's forensic DNA successes on NPR.

San Diego, CA and Orange County, CA are each (separately) initiating procedures to allow better access to post conviction DNA testing. For the first time in the US, DNA analysis will be conducted on evidence for a man who has already been executed.

A sweeping genetic privacy bill is about to be enacted by the Massachusetts legislature, and England will introduce legislation to ban genetic tests by employers.

STATE LEGISLATION

No new state legislation.

NEWS ARTICLES

Forensic DNA

1. “DNA tests exonerate two men accused in Newark rape.” The Associated Press State & Local Wire, August 3, 2000.
In New Jersey, DNA tests have exonerated two men who were arrested for raping two women. Authorities believe this is the first case in New Jersey where a defendant was cleared by DNA evidence prior to a trial. The initial basis for arrest was identification by the victims. When the prosecution originally announced its intent to test the suspects, one of the defense lawyers objected and forced prosecutors to obtain a court order.
2. “Acting governor hopes for criminal justice reforms.” The Associated Press State & Local Wire, August 2, 2000.
Texas State Senator Rodney Ellis (who is the acting Texas Governor while Gov. Bush and his Lt. Gov. are at the GOP Convention) worries that discussion on post conviction DNA testing and other criminal justice reforms will not continue after the November elections.

DNA LEGISLATION & NEWS

**Smith
Alling
Lane**

1025 Connecticut Ave. # 1021
Washington, D. C. 20036
202-258-2301

1102 Broadway Plaza # 403
Tacoma, WA 98402
253-627-1091

*A Professional Services Corporation
Governmental Affairs
Attorneys At Law*

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.

3. "Executed man's DNA to be shipped today for testing." The Atlanta Journal and Constitution, August 2, 2000.
At the request of the Atlanta Journal-Constitution and three other news organizations, DNA from a man who was executed in 1998 for a rape and murder in Georgia has been sent to a lab in California for analysis. DNA testing was not available at the time of the man's conviction, and attorneys failed to persuade the courts to allow such tests in appeals prior to the man's execution. A Superior Court Judge ordered the testing last month, but prosecutors argue that the testing is a waste of time. To date, DNA testing has not exonerated anyone who has already been executed.
4. "DNA leads to arrest. Howland man held in rape." Bangor Daily News (Bangor, ME), August 2, 2000.
Maine's DNA database nabbed a man for burglary and the sexual assault of a 72 year-old woman. The man had four prior convictions for robbery in Maine and Florida since 1983 (Maine and Florida both collect DNA samples for robbery and burglary). The man had been released from prison in 1991, but was still on probation.
5. "Legislator seeks DNA tests in more crimes." Chicago Tribune, August 2, 2000.
The Chair of the Illinois House Judiciary Committee is sponsoring legislation that would require DNA samples from anyone convicted of a violent crime. (Illinois is the only state that collects for murder, kidnapping, robbery and burglary but not assault and battery). Representative Gash believes her bill will get support from crime victims as well as from defense attorneys who could use such data to overturn a conviction on appeal. The Director of the Illinois State Crime Commission is researching the additional funds that will be needed. Representative Gash is running for a congressional seat in her district.
6. "Gash wants to spread net for DNA testing." Copley News Service, August 1, 2000.
Similar to article #5 (above). The State Crime Commission Director supports the bill but said police would have to expand their hours to accommodate the increased testing requirement. He would like to see the crime labs operating seven days a week for 24 hours a day, rather than from 8:30 to 5:00 Monday through Friday.
7. "Draft adds safeguards in death-penalty cases." Chicago Tribune, July 31, 2000.
The Democratic Party official platform will call for DNA tests "in all appropriate circumstances", "Effective assistance of counsel in all death penalty cases, and "thorough" post conviction review of all capital punishment cases. Death penalty issues are expected to play a major role in the upcoming debates.
8. "EDITORIAL New uses for DNA." The Denver Post, July 31, 2000.
In support of the San Diego District Attorney's decision to offer DNA tests for certain cases where inmates believe they have been wrongly convicted. The author suggests that many inmates will refuse the tests on the grounds that the results could implicate them in other crimes. Also, recent cases where DNA tests have only further implicated the inmate as the true perpetrator will serve to discourage demands for new tests from those trying to beat the legal system.

DNA LEGISLATION & NEWS

**Smith
Alling
Lane**

1025 Connecticut Ave. # 1021
Washington, D. C. 20036
202-258-2301

1102 Broadway Plaza # 403
Tacoma, WA 98402
253-627-1091

*A Professional Services Corporation
Governmental Affairs
Attorneys At Law*

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.

9. "DNA tests aren't open to everyone." The Florida Times-Union (Jacksonville, FL), July 31, 2000.
Article discussing the difficulties that inmates face in most states when attempting to get access to post conviction DNA testing – focus on Florida. Florida has laws prohibiting some DNA testing -- a two-year time limit on post-conviction appeals that prohibits the examination of old trial evidence. The Florida Bar has been attempting to draft a post conviction DNA process for over a year. Mentions US Sen. Leahy's bill for post conviction testing.
10. "Lawmakers debate who should pay for DNA tests." The Florida Times-Union (Jacksonville, FL), July 30, 2000.
Opponents for Pennsylvania Attorney General's office agree on DNA testing for death row inmates, which is now in the Pennsylvania Senate. Prosecutors and police are starting to speak out more strongly against the bill, saying it would allow to many frivolous requests for DNA testing and could be used as a stalling tactic. Also cited is the potential cost of testing, which is estimated to range between \$5,000 and \$30,000 per inmate, depending on the quality of the evidence. In Pennsylvania, support is growing to allow such testing for most serious crimes, not just murder.
11. "State's DNA files lead to arrest of rape suspect." Austin American-Statesman, July 29, 2000.
Austin police got their second "cold hit" off of the state's DNA database in the case of a woman who was robbed and sexually assaulted. The suspect had previous convictions for burglary, drug possession and theft. In 1998, the Texas legislature expanded its database from only sex offenders to include offenses of burglary, murder and aggravated assault. 300 to 400 new profiles are entered into the Texas database each month, which currently has a total of 23,000 samples. Statewide, 10 arrests have been made since the database was started in 1996.
12. "Police Use DNA To Nab Suspect." Pittsburgh Post-Gazette, July 29, 2000.
Pittsburgh police have solved their first case in which they relied solely on DNA evidence. A search warrant was granted to collect a DNA sample from a suspect on whom police had received a tip. The suspect was already facing charges of burglary, criminal trespass, robbery, aggravated assault and criminal conspiracy – none of which is a crime that Pennsylvania currently includes in their database.
13. "Janet Reno Delivers Remarks At National Law Enforcement Summit On DNA Technology." FDCH Political Transcripts, July 28, 2000.
US Attorney General Reno made general remarks on the progress of forensic DNA in the US. Remarks by an audience member encouraged law enforcement to contact Congress on the need for DNA testing and funding in protecting victims rights and public safety -- "to get the word out, almost as well as the criminals have gotten their word out and how we protect their rights." Reno is not permitted to encourage lobbying, but indicated that such an effort could be very helpful. She ended by saying, "But let me just stress to you how important it is that you be able to demonstrate clearly, with hard facts and figures, the people that have been apprehended and convicted; the dead ends that have been avoided; the savings involved; but most of all, the reduction in crime and the saving of lives.

DNA LEGISLATION & NEWS

**Smith
Alling
Lane**

1025 Connecticut Ave. # 1021
Washington, D. C. 20036
202-258-2301

1102 Broadway Plaza # 403
Tacoma, WA 98402
253-627-1091

*A Professional Services Corporation
Governmental Affairs
Attorneys At Law*

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.

14. "O.C. Pioneering A D.A.-Defender Project On DNA." Los Angeles Times, July 28, 2000.
The Orange County (CA) public defender and district attorney are preparing to work together to investigate possible wrongful convictions. Access to post conviction DNA testing is the main theme and the prosecutor's office said they will offer DNA testing if evidence exists that could prove their innocence. Public defenders will review potential cases, and if solid ground for DNA testing is found, the case will be brought to the DA's office that has promised cooperation.
15. "Save women: Take all felons' DNA." USA Today, July 28, 2000.
Soft criticism for the National Organization of Women's omission of DNA testing from their agenda for funding of the Violence Against Women Act. Author suggests that such DNA testing would put NOW at odds against the ACLU. Mentions Virginia and UK studies linking property crimes and rape. Ends with "The ACLU also argues that cataloging all felons' DNA leads us down a slippery slope toward a national DNA database of innocent citizens. What the civil libertarians refuse to acknowledge is that burglary and theft often are the first steps a criminal takes on his slippery slope toward rape and murder.
16. "Dr. Paul Ferrara, Director Of Virginia Division Of Forensic Science, Discusses Gathering Of DNA Evidence." National Public Radio, July 27, 2000.
Dr. Ferrara discusses the successes of Virginia's all-felon DNA database. Says that DNA testing routinely eliminates 25% of suspects police have focused on. Also briefly discusses the national problem of analysis backlogs.

Genetic Privacy

17. "Mass. set to pass tough genetic privacy laws." United Press International, August 3, 2000.
The Massachusetts legislature is poised to pass the strongest genetic privacy laws in the nation, which create strict prohibitions against genetic discrimination in banking, housing, health insurance and employment. The bill also establishes a commission to study the issue of using genetic tests for determining life insurance policies (after life insurance companies lobbied hard for their omission).
18. "DNA Sciences Inc. Seeks Genetic Data From Public." BIOWORLD Today, August 2, 2000.
This company is soliciting DNA samples on the website for its Gene Trust database. Samples will be stored as anonymous codes. Eventual users of the information may include consumers and physicians, but most often, users are likely to be "the HMO or third-party provider that wants to integrate genomics into their system."
19. "Genetic health checks on staff will be banned." The Daily Telegraph (London), July 29, 2000.
In England, the Government will introduce legislation to ban companies from asking job applicants and employees to take genetic tests, but may allow for testing in certain, narrowly defined situations – such as to identify a pilot who could have an epileptic fit. The government has been less forthcoming on whether insurance companies should be allowed access to genetic information.