

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 September 1, 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 Applied 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 North Carolina legislator has indicated that he intends to reintroduce legislation next year that would allow DNA samples to be collected upon arrest for certain crimes. Texas victims' rights advocates will also be asking their legislature for police authority to collect DNA samples from arrestees for certain crimes. The Government of Jordan will soon be establishing the country's first criminal DNA database.

A compromise has been reached in California, which should pave the way for the legislature to enact a post conviction DNA testing law.

STATE LEGISLATION

Forensic DNA

1. California SB 2097 – this bill was recently amended to request California universities and law schools to create Innocence Project-type of programs for students.
2. Pennsylvania SB 1504 – extends statute of limitations for prosecution of sexual offenses if DNA evidence is available.

NEWS ARTICLES

Forensic DNA

1. "Abuser Deserves Credit For Chutzpah." The Edmonton Sun, August 29, 2000.
Discusses a challenge being put forward by a "serial batterer" who is opposing a ruling that requires him to submit a DNA sample to Canada's DNA database. This will be one of the first challenges to the newly enacted legislation which established the database. Very scathing criticism of the challenge and challenger.
2. "DNA Testing In Crime Cases Causing Distrust In The Criminal Justice System." National Public Radio, August 29, 2000.
Points to prosecutors' reluctance to allow post conviction DNA testing as the onset of erosion of trust in the criminal justice system. Discusses the issue of rape kits and how long they should be kept.

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3. "DNA test backers prepare for new legislative fight." The Associated Press State & Local Wire, August 28, 2000.
A North Carolina State Senator, who is a former defense attorney, plans to resurrect legislation that would require DNA samples from anyone arrested of certain violent felonies. Other Senators and local police chiefs fear that the additional testing would impose too great of a burden on the arresting agencies if adequate funding is not included. The ACLU has also voiced privacy concerns. The state has registered 24 cold hits on its database since 1994.
4. "DNA evidence emerging as key factor to solving crimes nationwide." The Dallas Morning News, August 28, 2000.
Discusses the success of CODIS thus far, but says that "much of DNA's promise is yet unrealized" – mentions that only 24 states currently participate in CODIS. Several examples of success that Texas has achieved through DNA cold hits are cited. Funding and personnel are obstacles to reducing state backlogs. Also mentions ACLU privacy and Big Brother concerns.
5. "SIT, STAY, DNA." The National Law Journal, August 28, 2000.
A dog that is the object of an ownership dispute between a Taiwanese cargo ship (who claims the dog is a long-time mascot) and a Cape Town, Africa resident (who claims the dog disappeared from her house a few months ago), will have its DNA tested to see if it came from a local breeder.
6. "Criminals try to outwit DNA." USA Today, August 28, 2000.
Reports on several different ways in which criminals are attempting to elude DNA tests. Police have seen a growing number of cases where convicts swap DNA samples for testing, or otherwise leave someone else's DNA behind at a crime scene in order to confuse investigations. The number of rapists who wear gloves and condoms are also rising.
7. "Twin suspects' genes could blur DNA tests." The Herald-Sun (Durham, NC), August 27, 2000.
Although DNA from someone other than the victim has been found at a crime scene, prosecutors may still have a difficult road ahead since two of the suspects are twins. The DNA sample is currently being tested, but analysts have not yet determined whether the DNA matches the two brothers.
8. "Jordan to Establish DNA Database for Police Investigations." Xinhua General News Service, August 27, 2000.
Police in the country of Jordan are planning to establish a criminal DNA database beginning in 2001. The crime rate in Jordan has been rising steadily, triggered by high poverty and unemployment rates.
9. "DNA evidence soon will map crime progression." Corrections Professional, August 26, 2000.
A Virginia Department of Corrections study shows that nearly half of all inmates convicted of sex crimes began their careers as burglars. The National Commission on the Future of DNA Evidence supports the use of statewide DNA databases, and the National Association of Criminal Defense Lawyers agrees that DNA databases would "certainly help law enforcement – just as it would if we surrendered all of our constitutional rights."

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10. "City may add to police staff; Council calls for budget review." San Antonio Express-News, August 25, 2000.
The San Antonio City Council may supply the Police Department's 2001 budget with \$3.2 million for "technological improvements" and with an additional \$158,000 for "increased costs of Bexar County crime lab services."
11. "DNA testing technology, accuracy improve." Bangor Daily News (Bangor, ME), August 24, 2000.
Briefly explains the history of DNA analysis and how it is being used today. Says that the federal government is "making noises about keeping DNA records on every citizen, much like a genetic Social Security Card," but also points out that civil rights advocates are concerned about related privacy issues.
12. "Accord On DNA Tests for Inmates." The San Francisco Chronicle, August 24, 2000.
An agreement has been reached by the California Attorney and General and the sponsor of a post conviction bill (Sen. Burton). The compromise limits testing to felons still in prison; requires that identity must have been an issue at trial; and requires that there must be a "reasonable probability" that the verdict would have been more favorable. The Governor is expected to sign the bill.
13. "Group urges DNA legislation as aid sought in 1990 murders." The Houston Chronicle, August 24, 2000.
Victim's rights advocates in Texas are urging legislation that would allow police to take DNA samples upon arrest for certain crimes. The samples would be put in a database for comparison purposes for unsolved serial crimes. Victim's rights advocates are expected to lobby the legislature next year for this law.
14. "DNA sample led to teen's arrest in crime spree." The Associated Press State & Local Wire, August 23, 2000.
After an officer noticed a similarity to a victim's composite sketch, a DNA sample was taken from a teen (upon his and his mother's consent). The sample was then linked to a number of rapes and one murder. The teen has since been charged with 48 counts that arise from 13 incidents involving 16 victims.

Genetic Privacy

15. "Genetic discrimination Rehab Act provides shaky protection." Federal Human Resources Week, August 21, 2000.
The Executive Order prohibiting genetic discrimination is technically considered a "policy document" and does not provide enforceable rights. Therefore, federal employees who try to sue employers for genetic discrimination may have a difficult time proceeding with a lawsuit.

Paternity

16. "Paternity Test Web Site." Press Association Newsfile, August 30, 2000.
A new website (www.dnanow.com) is offering fast paternity tests using hairs. The site is coming under fire because it allows men to get paternity tests without notifying the mother or child.