

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.

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The December 15, 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

Congress has enacted two bills that will significantly increase federal funding for DNA analysis – The National Forensic Science Improvement Act (S. 3045) and the DNA Backlog Elimination Act (HR 4640).

The California Attorney General will promote legislation in 2001 to require DNA samples from all felons. New York has credited its expanded DNA database with 15 “cold hits” this year. An article on Wisconsin’s database reports on the state’s first interstate match. Minnesota is looking for new DNA evidence in old, unsolved crimes. Police in Indiana, New York and Connecticut have used DNA to link suspects to unsolved crimes. An article on Wisconsin’s database reports on the state’s first interstate match.

Extending the statute of limitations when DNA is available was discussed at length in The National Law Journal.

A post conviction bill has been prefiled in Louisiana for the 2001 session. The Michigan Legislature may still enact a post conviction DNA bill this year. Post conviction DNA testing issues in South Carolina, New York, Texas, Washington D.C., and Alabama made the headlines.

Interpol is discussing an international DNA center to track criminals. In New Zealand, police are facing budget crunches due to DNA analysis costs and are discussing establishing a separate DNA lab for forensic work only. Police in South Wales (UK) will be expanding their use of DNA. Police in the UK are under fire for illegally keeping certain DNA samples.

STATE LEGISLATION

Forensic DNA

1. Louisiana HB 26 (prefiled) – Provides criteria for allowing post conviction DNA testing and appeals, and, if proven innocent, for post conviction relief.

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NEWS ARTICLES

Forensic DNA

1. "Felker DNA tests show no evidence in murder." Atlanta Journal and Constitution, December 13, 2000.
A private lab in California that was hired to conduct post-execution DNA tests has concluded that there is not enough material from fingernail scrapings for testing. The Atlanta Journal Constitution, CBS News, and the Macon Telegraphy were funding the analysis for a man who was executed in Georgia in 1996 for a rape/murder conviction. Both CBS and the Macon Telegraphy backed out of the project a few weeks ago.
2. "DNA Summit' Examines Unusual Cases." APBNews, December 12, 2000.
California recently held a two-day "DNA Summit" for law enforcement officials. Presenters at the summit reviewed various ways in which police can use DNA to solve crimes and convict criminals – such as using DNA tests on blood samples taken from drunk driving arrests to prove the sample was not "mixed up" with someone else's, or from testing gum left on a dashboard of a stolen car.
3. "Crime Drops In Larger Cities." Los Angeles Times, December 12, 2000.
In response to reports that California saw a 9.7% increase in sexual assaults this year, Attorney General Lockyer announced that he will push legislation next year to expand the state's DNA database to include all convicted felons. The proposal may face strong opposition in the Senate.
4. "Old Evidence Resurfaces, Unsettling '82 Murder Case." The New York Times, December 12, 2000.
In South Carolina, attorneys for a man who has spent 18 years on death row for a murder conviction claim that they have DNA evidence that suggests the man is innocent. DNA analysis on some hair samples that were found at the crime scene (and later lost/misplaced for until just recently) are from a person of a different race than the convicted man. However, there are several other hairs from the crime scene that are still believed to belong to the inmate, which defense attorneys argue may have been planted.
5. "Police bid to tackle speeding - Crime-cutting plan revealed." South Wales Evening Post, December 12, 2000.
Police in South Wales (UK) intend to expand the use of DNA testing to tackle burglary and car crime.
6. "Legislators save tough bills for last." Detroit News, December 11, 2000.
The Michigan Legislature will adjourn next week and still has several important bills that may be passed prior to the end of the session – including a post conviction DNA testing bill.
7. "Stopping the clock." The National Law Journal, December 11, 2000.
Discusses new approaches prosecutors are using to avoid expiring statutes of limitations - sealing indictments and indicting unknown defendants by DNA profiles. Gives a fair presentation of the pros, cons and supporting court cases. Reports that Texas, New York, California and Wisconsin have all used the "John Doe" indictment to stop the tolling of the statute of limitations.

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8. "New DNA tests may solve old crimes." Star-Tribune (Minneapolis, MN), December 11, 2000.
The Minnesota Bureau of Criminal Apprehension is hoping that new DNA testing can help it put to rest 96 unsolved crimes. The BCA sent out over 60 letters to state law enforcement agencies asking them to review cases for untested DNA materials. BCA reports that they have used the new DNA testing in solving 15 to 20 old cases so far. DNA evidence from all unsolved homicides should be entered in the state's DNA database within the next six months.
9. "Wait on Death Row takes a jump in 1999." Telegraph Herald (Dubuque, IA), December 11, 2000.
Article reports that longer waits on death row in 1999 could be a result of concern over possibly erroneous convictions. Reports that Governors are delaying executions to review DNA evidence, and that proposals have been introduced in Congress to allow greater access to post conviction DNA testing.
10. "DNA evidence clears man of rape he didn't commit." The Associated Press State & Local Wire, December 10, 2000.
George Bush has pardoned a man convicted in 1986 of a sexual assault after DNA testing has shown that he did not commit the crime. The man had served 10 years on a 27-year sentence. The man had offered his DNA for tests, but the state would not pay for the tests and his family could not afford it. After gaining parole, the man saved \$1800 for the test that proved his innocence.
11. "Texas crime labs in line for funding boost." The Houston Chronicle, December 10, 2000.
Texas crime labs expect \$23 million over six years in federal funding from the recently enacted National Forensic Sciences Improvement Act (S. 3045). US Senator Phil Gramm (R-TX) said that the funding will help clear a national backlog of nearly 7,000 cases.
12. "DNA Battle For Cops And Straw." News Of The World, December 10, 2000.
UK's Home Secretary Jack Straw may be facing legal battles after it was revealed that police are illegally keeping thousands of DNA profiles of people who have been cleared of offenses.
13. "Guilty? Innocence Project Has Its Doubts About Cases." The Washington Post, December 10, 2000.
Review of the Innocence Project and its successful efforts of using DNA evidence to free the wrongly convicted. Focuses particularly on the Washington, D.C. Innocence Project.
14. "TBI Lab On Way To Aid Tenn. Crime-Solving." The Commercial Appeal (Memphis, TN), December 9, 2000.
The Tennessee Bureau of Investigation recently held a ground-breaking ceremony for a new crime lab in Shelby County. The lab will be a full-service lab. Initial funding of \$1.2 million was included in the 1998 state budget for the lab, the county is supplying the land, and the county and Memphis will provide support through federal block grants.
15. "Order for DNA test reversed." The Times-Union (Albany, NY), December 9, 2000.
A New York Supreme Court Justice has overturned his own decision to order a DA to pay for DNA tests that could exonerate a man convicted of sexual assault. Previous tests done on crime scene evidence were unable to prove that the man was the attacker, but, nevertheless, he was convicted. The test is expected to cost \$2000. The judge ruled that requiring the DA to pay for the test "creates an appearance that the prosecutor is supporting the defendant's case financially. I do not believe

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that appearance is appropriate or in the best interests of justice."

16. "DNA tests stretch budget." Waikato Times (Hamilton), December 9, 2000.
Police in New Zealand are facing a "blowout" in their DNA budgets mid-way through the fiscal year. Police are taking measures to restrict the taking of DNA as one solution. Meanwhile, the National Party is pursuing a bill to allow DNA samples to be taken from burglary suspects.
17. "Congress approves funding to reduce backlogs in crime labs." The Associated Press State & Local Wire, December 8, 2000.
Congress has approved a measure for \$512 million over six years in grants to states. The original version awarded \$768 million, but it was scaled down. Since this year's Justice Department Appropriations bill has not been enacted, it is possible that the program could be funded for FY 2001 (authorized at \$35 million for the first year, plus \$30 million for DNA backlog reduction in 2001). The House sponsor said that 70 percent of the 600 state and community forensic laboratories, medical examiners' offices and coroners' offices experience major backlogs.
18. "Officer says DNA collected from 69 people during murder investigation." The Associated Press State & Local Wire, December 8, 2000.
Indiana police have found a murder suspect through DNA tests that were carried out on 69 people during the criminal investigation. The man submitted the DNA sample while he was being held for questioning in the disappearance of another university student, for which he has since plead guilty.
19. "Senator proposes death penalty moratorium." The Associated Press State & Local Wire, December 8, 2000.
An Alabama Senator has proposed a moratorium on death penalties. The Governor is opposed to the moratorium, but has said that post conviction DNA testing is available for inmates.
20. "Evidence Points To Storage Gap For Police." Chicago Times, December 8, 2000.
After old DNA evidence exonerated several inmates on death row in Illinois, the Legislature acted to require the permanent storage of all evidence used in a conviction. Consequently, police are quickly running out of room now that they must keep evidence such as arm chairs and cars. In one case, a package of frozen pork chops is being held because a man convicted of murder told police he had injured himself while trying to open one of the packages – eventually DNA could be found on the package to prove the man's story, so police must hold it.
21. "Rapist Who'd Been Cleared Four Times." The Express, December 8, 2000.
In England, a man whose DNA sample was taken after he was caught stealing a bottle of whiskey was linked to an unsolved sexual assault. The man had previously been cleared of four other sexual assault charges.
22. "Suspect linked to three rapes." The Associated Press State & Local Wire, December 7, 2000.
Police in Connecticut have used DNA to link a man to three unsolved rapes. The man was already in custody for disorderly conduct (after following an undercover female police officer), when police decided to test his DNA against the crime scene evidence.

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23. "State's expanded DNA database has "hits" on 15 convicted offenders." The Associated Press State & Local Wire, December 7, 2000.
Gov. Pataki has announced that the New York's newly expanded DNA database has resulted in 15 "cold hits" in its first year. The expansion increased the number of felons from whom DNA is collected from 21 to 107. Pataki also announced that the state will soon switch to collection by oral swab, rather than blood sample.
24. "Sen. Sessions' Bill To Help Overburdened Crime Labs Sent To The White House." Congressional Press Release, December 7, 2000.
Congress has enacted new federal legislation giving \$512 million over six years to state crime labs. The bill was passed in honor of late Senator Coverdell, who came from Alabama where it can take up to 21 months to process DNA evidence. Alabama should get at least \$5.2 million from the bill. The formula for funding is as follows: 75 percent based on population, and 25 percent to high crime areas.
25. "Police want exclusive DNA test laboratory." The Press (Christchurch), December 7, 2000.
Police in New Zealand are considering funding their own crime lab to do forensic DNA analysis. The lab would cost an estimated \$3 million and would be run by the Environmental Sciences and Research's biology section, which is already responsible for all DNA analysis in the country. Current backlogs mean that police must wait three months for "routine" DNA tests.
26. "Interpol mulls global DNA profiling centre." The Straits Times (Singapore) December 7, 2000.
Intropol's DNA Monitoring Group is considering establishing an international profiling center so that criminals may be tracked worldwide. The proposed center would be established at headquarters in Lyon, France. Nine Argentina, Australia, Austria, Belgium, France, Norway, Spain, Britain and the United States were represented at the meeting. The group is also trying to standardize DNA profiling systems.
27. "DNA helps find suspect in '93 rape -- in Texas jail." Milwaukee Journal-Sentinel, December 6, 2000.
Wisconsin authorities have recently used CODIS to link a 1993 rape to a man in a Texas prison. Since Wisconsin's statute of limitations can be extended by the amount of time the person spent outside the state, the man can still be prosecuted for the crime. Wisconsin recently expanded its database to include all felons. Milwaukee District Attorney Norm Gahn recently filed his 12th "John Doe" indictment based on a DNA profile.
28. "Inmate charged in '96 assault on teen." The Times-Union (Albany, NY), December 6, 2000.
A New York inmate, incarcerated for rape, has been linked to an unsolved sexual assault through the state's DNA database. The man has since admitted to the crime.

Genetic Privacy

29. "Government denies DNA mapping deal." BBC Summary of World Broadcasts, December 11, 2000.
The Tongan (New Zealand) Government has denied that it struck a deal with an Australian company to gather genetic information from Tongans.

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30. "Half million to be tested for UK gene map." Sunday Times (London), December 10, 2000.
Family doctors in Britain will be asked to write to patients between the ages of 45 and 65, asking for background and lifestyle information, along with a sample of blood. The study could be the first step in establishing a national genetic database that would contain DNA on all persons covered by the National Health Services. The cost is expected to reach 40 million pounds, but will be partially offset when the information is sold to pharmaceutical companies.
31. "Labor relents on privacy law." The Canberra Times, December 9, 2000.
A new privacy law in Australia will give genetic information the same protection as other health information.
32. "Hell for insurers - a genetic map of future." Insurance Day, December 7, 2000.
Discusses the problems of deciding whether to share genetic test results or other genetic information with insurers. Author provides the story of her personal dilemma.