

POST CONVICTION DNA LEGISLATION

Prepared by Smith Alling Lane on behalf of Applied Biosystems
(as of December 2001)

ST	Bill #	SPONSOR	SUMMARY	STATUS
AL	SB 29	Smitherman	For the relief of Ronnie Benjamin Mahan and Dale Elize Mahan of Jefferson County, who were wrongfully convicted of rape and kidnapping and incarcerated for 13 1/2 years. (Exonerated by DNA).	Died in Committee
AL	SB 229	Sanders	Allows a defendant to seek the performance of fingerprint or forensic DNA testing on evidence that was secured in relation to the trial which resulted in his or her conviction.	Died in Committee
AR	SB 4	Smith	Provides methods for preserving DNA evidence and to provides a remedy for innocent persons who may be exonerated by this evidence.	ENACTED
AR	SB 915	Walker	An Act concerning a moratorium on capital punishment when DNA evidence is an issue.	Died in Committee
CA	SB 83	Burton	Allows for the appointment of counsel prior to the filing of a motion for post-conviction DNA testing.	ENACTED
CA	SB 1026	McPherson	Establishes the California Innocence Protection Program within the Office of Criminal Justice Planning to provide funds for the purpose of assisting convicted persons who are attempting to establish their actual innocence for the crime for which they are currently incarcerated. Requires the OCJP to award annual grants to eligible nonprofit organizations that operate legal clinics using law students and to county public defenders and private counsel based upon specified criteria.	ENACTED
FL	HB 147	Council for Healthy Communities	Provides for examination of DNA evidence collected at time crime is investigated; provides procedure under which defendant who has been found guilty or who has pled guilty or nolo contendere may petition trial court to order examination of DNA evidence; provides that defendant waives any objection to introduction of DNA test results in any future proceeding; provides certain time limitations, etc.	See SB 366
FL	HB 1483	Harper	Provides post conviction relief for the estate of a man who died in prison but was shortly thereafter exonerated by postconviction DNA testing.	Died in Committee
FL	SB 366	Appropriations Subcommittee on Public Safety and Judiciary	Provides for examination of DNA evidence collected at time crime is investigated; provides procedure under which defendant who has been found guilty may petition trial court to order examination of DNA evidence; provides guidelines for seeking postsentencing DNA testing; requires that court make certain findings; provides for right to appeal; prescribes duties of FDLE re postsentencing DNA testing.	ENACTED
HI	HB 42	Takumi	Ensures the availability of DNA testing in appropriate cases and that wrongfully convicted persons have an opportunity to establish their innocence through DNA testing, by requiring the preservation of DNA evidence for a limited period.	Died in Committee

IA	SF 229	Gronstal	Creates a procedure for a criminal defendant to obtain fingerprint testing or DNA profiling after a conviction if testing or profiling had not been performed previously. The bill provides that a defendant may make an application to the court for fingerprint testing or DNA profiling. The state shall be represented by the county attorney, or the attorney general, if the attorney general consents to such representation. An application must prove that fingerprint testing or DNA profiling was not available at the time of the criminal proceedings, that the identity of the defendant was an issue in the case, and that a sufficient chain of custody of the evidence can be established.	Died in Committee
ID	HB 242	Judiciary, Rules And Administration	Amends existing law relating to post-conviction appeals to provide a petition for special procedures for fingerprint and DNA testing; to provide additional conditions for filing a petition for fingerprint and DNA testing; to provide that a trial court shall order appropriate relief if testing demonstrates a person did not commit an offense; and to provide for payment of testing.	ENACTED
IN	HB 1826	Weinzapfel	Allows a person who has been convicted of murder and sentenced to death to petition the court that convicted the person to require the forensic DNA testing of any biological material that: (1) is related to the investigation or prosecution that resulted in the person's conviction; (2) is in the possession of the court, the state, or a political subdivision of the state; and (3) was not previously subjected to DNA testing or may be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results. Provides that if the results of DNA testing are favorable to the person, the court must: (1) order a hearing; and (2) enter any order that serves the interests of justice, including an order that vacates and sets aside the judgment against the person, discharges the person if the person is imprisoned, resentsences the person, or grants the person a new trial. Requires the state and all political subdivisions of the state to preserve any biological material secured in connection with a prosecution for murder for the time that any person remains sentenced to death in connection with the case. Provides for exceptions.	See SB 81
IN	SB 81	Alexa	Postconviction DNA testing and analysis. Allows a person who was convicted of and sentenced for murder or a Class A, Class B, or Class C felony to petition a court to require the forensic DNA testing and analysis of any evidence that may exonerate or reduce the sentence of the person. Requires the prosecuting attorney to notify the victim of the offense after a petition has been filed. Requires the court to grant the petition in certain circumstances. Requires the prosecuting attorney to notify the convicted person anytime that the prosecuting attorney conducts postconviction DNA testing and analysis that will consume all of the available biological evidence. Requires, subject to the right of the prosecuting attorney to seek additional testing upon good cause shown, that the court order a new trial when DNA testing and analysis produces evidence favoring the convicted person.	ENACTED
KY	HB 273	Webb	Create a new section of KRS Chapter 455 to allow for post-conviction forensic DNA testing under certain circumstances for death row inmates.	Died in Committee
KY	SB 45	Karem	Include all felons in the state's criminal DNA collection and indexing program. Amended to include post conviction DNA testing procedures as well.	Passed Senate and House Committee. Adjourned without enacting.
LA	HB 7	Dupre	Establishes the procedure for inmates to request and obtain DNA testing in seeking to prove their innocence in the crime for which they were convicted.	See SB 511

LA	HB 26	Murray	Establishes the procedure for inmates to request and obtain DNA testing in seeking to prove their innocence in the crime for which they were convicted.	See SB 511
LA	HB 664	Heaton	Creates the "DNA Testing Act of 2001" which allows incarcerated persons to apply for DNA testing of biological material.	See SB 511
LA	HB 1079	Downer	Provides for post- conviction DNA testing and adds results of such testing to the grounds for post- conviction relief.	See SB 511
LA	HB 1910	Heaton	Provides access to DNA testing of biological materials for inmates in post-conviction proceedings	See SB 511
LA	SB 79	Fields	Provides access to DNA testing of biological materials for inmates in post-conviction proceedings	See SB 511
LA	SB 270	Dupre	Provides access to DNA testing of biological materials for inmates in post-conviction proceedings	See SB 511
LA	SB 306	Fields	Provides access to DNA testing of biological materials for inmates in post-conviction proceedings	See SB 511
LA	SB 337	Dupre	Authorizes a procedure for persons in custody after conviction of a criminal offense to seek DNA testing.	See SB 511
LA	SB 511	Lentini	Proposed law creates an exception to time for filing an application for post-conviction relief by allowing inmates a two year period from the effective date of the Act for seeking post conviction DNA testing. Proposed law requires applications to comply with requirements of present law. Further requires that an application shall include a factual explanation as to why DNA testing will resolve an articulable doubt as to the guilt of the petitioner and establish his guilt or innocence; the establishment of timeliness of the application; the identification of the evidence being sought for testing; and an affidavit, signed by the petitioner under penalty of perjury, stating that he is factually innocent of the crime for which he was convicted. Proposed law requires the application must be filed before August 31, 2003.	ENACTED
MD	SB 15	Currie	Authorizing a convicted felon to file a petition for postconviction DNA testing of specified evidence under specified circumstances; requiring a judge to make specified findings before issuing a specified order for DNA testing; requiring procedures for notification to the State; providing for payment of the costs of DNA testing under specified circumstances; requiring the court to take action based on specified results of DNA testing; defining a term; and providing for the application of the Act.	Failed in Senate Policy Committee
MD	SB 84	Kelley	Authorizing a convicted felon to file a petition for postconviction DNA testing of evidence under specified circumstances; requiring a judge to make specified findings before issuing an order for DNA testing; requiring notification; requiring the court to include items in an order for DNA testing; requiring DNA testing to be ordered in a specified period of time; requiring the costs of DNA testing to be paid by specified persons depending on circumstances; etc.	Failed in Senate Policy Committee

MD	SB 694	Hughes	Authorizing a person convicted of specified offenses to file a petition for postconviction DNA testing of scientific identification evidence that the State possesses and is related to the judgment of conviction; requiring a judge to make specified findings before issuing an order for DNA testing; requiring a petitioner to give the State written notice of the filing of a petition; etc.	ENACTED
MD	SB 699	Miller	Authorizes death row inmates to file a petition for postconviction DNA testing under specified circumstances; requires a judge to issue an order for DNA testing under specified circumstances; provides for payment of the costs of DNA testing under specified circumstances; requires the court to take actions based on specified results of DNA testing.	Failed in Senate Policy Committee
ME	LD 1698	Skoglund	Permits persons who are convicted of crimes but are not required to submit to having a DNA sample drawn or persons charged with criminal offenses but not yet tried to request that a DNA sample be drawn. The bill allows persons who are incarcerated to request that a DNA sample be drawn at any time during incarceration. The bill permits those persons requesting DNA samples to be given access to their records relating to the samples. The bill also requires prosecutors to use all DNA evidence available in a case, regardless of what the evidence indicates.	ENACTED
MO	HB 835	Phillip	Provides procedures for post conviction DNA testing	See SB 267
MO	HB 929	Hosmer	Changes several laws regarding the use of DNA evidence in criminal procedure.	See SB 267
MO	HB 977	Baker	Allows a motion for a new trial to be filed at any time, as long as the sole grounds for the new trial is DNA evidence of innocence.	See SB 267
MO	SB 29	Rohrbach	Requires the Department of Public Safety to preserve any evidence from the criminal trial which has been or can be subject to DNA testing. Allows a defendant convicted of violent or sexual felonies requiring testing to make a post-conviction motion for DNA testing..	See SB 267
MO	SB 267	Klarich	Allows access to post conviction DNA testing if (1) there is a sufficient sample; and (2) the sample was secured in relation to the crime; and (3) the sample was not previously tested because: (a) the technology was not available; (b) the defense was aware of the existence of the sample; or (c) the sample was otherwise unavailable; and (4) identity was an issue in the trial; and (5) a reasonable probability exists that the inmate would not have been convicted if the DNA test had proven exculpatory.	ENACTED
MO	SB 282	Klarich	Requires the Department of Public Safety to preserve any evidence from the criminal trial which has been or can be subject to DNA testing. The act also allows a defendant convicted of certain violent or sexual felonies requiring testing to make a post-conviction motion for DNA testing of evidence from trial.	See SB 267
MS	HB 318	Fleming	Provides For Post-Conviction Motions For DNA For All Capital Death Penalty Cases.	Died In Committee
MS	SB 2481	Jackson	An act to provide civil compensation for an erroneous conviction; to enact conditions for compensation; to prescribe requirements for proceedings hereunder; to establish a burden of proof; to eliminate defenses; to prescribe evidentiary standards.	Died In Committee
NC	HB 884	Blue	An act to assist an innocent person charged with or wrongly convicted of a criminal offense in establishing the person's innocence and to amend the law providing compensation to the person for a wrongful conviction.	ENACTED
NC	SB 1421	Blue	Providing compensation to a person for a wrongful conviction and to direct the division of criminal statistics to report on the administration of the state's capital punishment laws	See HB 884

NC	SB 164	Balance	An act to assist an innocent person charged with or wrongly convicted of a criminal offense in establishing the person's innocence and to amend the law providing compensation to the person for a wrongful conviction.	See HB 884
NC	SB 925	Rand	An act to require DNA testing of defendant charged with first degree murder for which the state seeks the death penalty.	See HB 884
NC	SB 932	Rand	An act to provide that a defendant convicted of first degree murder and sentenced to death may have an opportunity for DNA testing if relevant to the defendant's assertion of actual innocence.	See HB 884
NE	LB 577	Brashear	Changes provisions relating to postconviction proceedings; to provide for performance of fingerprint and forensic DNA testing; and to repeal the original sections.	See LB 577
NE	LB 659	Chambers	Creates the DNA Testing Act.	ENACTED
NJ	SB 1920	Martin	Provides that any person who has been convicted of a crime and is currently serving a term of imprisonment may make an application to the court for the performance of forensic DNA testing under specified conditions. (Modeled after California law).	Passed Senate Committee
NM	HB 637	Foley	Establishes procedures for the consideration of DNA evidence not available at the time of an offender's criminal trial	See SB 337
NM	SB 337	Sanchez	Relating to criminal procedure; establishing procedures for the consideration of DNA evidence not available at the time of an offender's criminal trial.	ENACTED
NV	AB 354	Price	Provides for DNA analysis of certain evidence relating to the conviction of offenders who have been sentenced to death; provides for a stay of execution pending the results of the analysis.	Died in Committee
NV	ACR 21	Anderson	Directs Legislative Commission to conduct interim study of issues regarding death penalty and related DNA testing.	ADOPTED
NV	SB 254	Neal	Establishes a moratorium on the execution of sentences of death until July 1, 2003; provides for a study of issues regarding the death penalty.	Passed Senate. Died in Assembly
NY	AB 9250	Wright	Authorizes a defendant to make a motion for the performance of forensic DNA testing of trial evidence as part of a motion to vacate a criminal conviction and set aside the sentence regardless of the date of conviction.	Passed policy committee.
NY	SB 405	Skelos	Permits indictments to be filed by fictitious name where a person's name is unknown but whose identity is established to the satisfaction of a grand jury through the use of DNA evidence; establishes an assistance to police and crime laboratories: DNA evidence fund; and establishes an innocence project program to provide assistance to defendants who are innocent of the charge or charges of which they have been convicted.	Died in Committee
NY	SB 5190	Volker	Authorizes a defendant to make a motion for the performance of forensic DNA testing of trial evidence as part of a motion to vacate a criminal conviction and set aside the sentence regardless of the date of conviction.	Died in Committee
NY	SB 5640	Skelos	Authorizes a defendant to make a motion for the performance of forensic DNA testing of trial evidence as part of a motion to vacate a criminal conviction and set aside the sentence regardless of the date of conviction.	Passed Senate
OH	SB 7	Johnson	Establishes a mechanism for the DNA testing of certain inmates under a sentence of death.	Passed Senate.

OH	SB 25	Espy	Provides DNA testing to specified adult offenders and delinquent children if the DNA evidence would have been relevant in the initial determination of guilt or adjudication of a delinquent child.	Died in Committee
OR	SB 667	Winner	Provides that petition for post-conviction relief may be made at any time if grounds for petition is innocence of petitioner as established by DNA evidence.	ENACTED
PA	HB 1441	Roebuck	Provides procedures for post conviction DNA testing	Died in Committee
PA	SB 589	Greenleaf	Providing for postconviction DNA testing.	ENACTED
SD	SB 228	Staggers	Provides for DNA testing for certain inmates for the purposes of determining whether they may have been wrongfully convicted.	VETOED
TN	HB 770	Briley	Enacts "Post-Conviction DNA Analysis Act of 2001."	See SB 796
TN	SB 796	Cohen	Enacts "Post-Conviction DNA Analysis Act of 2001."	ENACTED
TX	HB 157	Hochberg	Relating to postconviction DNA testing.	See SB 3
TX	HB 312	Allen	Relating to establishing a procedure for postconviction DNA testing.	See SB 3
TX	HB 366	Hinojosa	Relating to postconviction DNA testing.	See SB 3
TX	HB 864	Dutton	Relating to postconviction DNA testing.	See SB 3
TX	HB 1474	Hinojosa	Relating to establishing procedures for the preservation of evidence containing DNA and postconviction DNA testing.	See SB 3
TX	SB 3	Duncan	Relating to establishing procedures for the preservation of evidence containing DNA and postconviction DNA testing.	ENACTED
TX	SB 119	Wentworth	Relating to establishing a procedure for postconviction DNA testing.	See SB 3
TX	SB 680	Shapleigh	Relating to the creation of a commission to study capital punishment in Texas.	Failed to pass Senate
US	HB 321	Jackson	To assure protection for the substantive due process rights of the innocent, by providing a temporary moratorium on carrying out of the death penalty to assure that persons able to prove their innocence are not executed.	Died in Committee
US	HB 912	Delahunt	To reduce the risk that innocent persons may be executed, and for other purposes.	Died in Committee
US	HB 1038	Jackson	To place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.	Died in Committee
US	SB 233	Feingold	A bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.	Died in Committee
US	SB 486	Leahy	A bill to reduce the risk that innocent persons may be executed, and for other purposes.	Died in Committee

US	SB 800	Feinstein	Provides for post conviction DNA testing and establishes a competent counsel grant program.	Died in Committee
UT	SB 172	Hillyard	This act amends the Judicial Code to provide for postconviction DNA testing of a person, and provides for procedures, if the test is favorable, to declare the person actually innocent. The act also provides procedures if the result is unfavorable.	ENACTED
VA	HB 1590	Marshall	Capital murder. Provides that a jury considering the death sentence may be instructed that there was an individual sentenced to death in the Commonwealth and twice scheduled to be executed who was later granted an absolute pardon for capital murder on the basis of DNA testing.	Died in House
VA	HB 2349	McEachin	Virginia Innocence Protection Act of 2001 (post-conviction testing of biological material for DNA). Establishes procedure for application of convicted defendant to apply for post-conviction DNA testing for the purpose of establishing innocence (or verifying guilt); requiring the DNA to be preserved for such purposes subject to certain exceptions.	See HB 2580
VA	HB 2580	McDonnell	Directs the Supreme Court of Virginia and the Public Defender Commission to develop standards and a list of capital qualified attorneys to represent both indigent and non-indigent defendants. Additionally, the new qualifications are required to take into account current training in the analysis and introduction of forensic evidence, including deoxyribonucleic acid (DNA) testing and the evidence of a DNA profile comparison to prove or disprove the identity of any person.	ENACTED
VA	HB 2802	Armstrong	Requires that any human biological evidence used in a felony trial, where the defendant is convicted, testing (e.g., fingerprinting, chemical analysis, blood or DNA analysis) be retained for 15 years upon motion of the defendant. In the case of a person sentenced to death, such evidence shall be kept until the judgment is executed.	ENACTED
VA	HJR 508	Marshall	Establishes a joint subcommittee to study the need for a moratorium on death sentence executions in the Commonwealth. Among other matters, the subcommittee is to determine the procedures that should be established regarding post-conviction access to forensic evidence, including DNA testing when such testing could result in new evidence of innocence.	Died in House
WA	HB 1889	Lovick	Provides for DNA testing of evidence. Provides that the act shall be null and void if appropriations are not approved.	See SB 5896
WA	SB 5896	Constantine	Provides for DNA testing of evidence. Provides that the act shall be null and void if appropriations are not approved.	ENACTED
WI	AB 291	Walker	A person who was convicted of a crime, found not guilty by reason of mental disease or defect, or adjudicated delinquent to file a motion for testing of DNA evidence if 1) the evidence is relevant to the conviction, finding of not guilty by reason of mental disease or defect, or delinquency adjudication, 2) the evidence is in the possession of a government agency or court, and 3) the evidence was not previously subjected to DNA testing or was tested with a less advanced method than is currently available. An indigent person making a motion for postconviction DNA testing may be represented by a public defender.	Died.
WV	HB 2883	Overington	Providing for a death penalty and procedures and standards applicable thereto	Died in Committee