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The October 5, 2001 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

Another bill has been requested in Kentucky to expand the offender DNA database to include most violent offenses plus burglary. An all-felons database law is coming into effect in Montana. A state employee strike in Minnesota is impacting work at the forensic lab, and Arizona budget cuts may result in reduced crime lab personnel.

A North Carolina law is coming into effect that will allow greater access to post conviction testing.

Canada has gotten its first conviction from a cold hit on the national DNA database. DNA testing delays in Australia and New Zealand are frustrating investigators and the courts. A Pakistan official noted the country's lack of forensic DNA testing ability.

## STATE LEGISLATION

### Forensic DNA

1. Kentucky Bill Request 364 – Expands DNA database to include all “violent offenders” and burglars, and includes those felons not in the custody of the Department of Corrections. Allows buccal swabs to be taken instead of blood. Authority is retroactive to 1992.

### Paternity

2. Kentucky Bill Request 205 – Allows district courts to order genetic testing to establish maternity or paternity at the expense of the claimant.

## NEWS ARTICLES

### Forensic DNA

1. “OSBI says it will take time to review cases of former serologist.” The Associated Press State & Local Wire, October 3, 2001.  
The Oklahoma State Bureau of Investigation is set to review work done by former agent after a DNA test called into question testimony he gave in a 1983 murder trial. In the trial, the agent testified that a hair sample found on the victim's body matched the defendant's hair. However, a subsequent DNA analysis of the sample showed that the hair sample was not the defendant's.
2. “Man convicted of murder to be released after 18 years because of DNA analysis.” The Associated Press, October 2, 2001.  
In Oklahoma, a man who has spent 18 years in prison on a murder conviction was expected to be released thanks to DNA testing showing that hair found at the crime scene wasn't his (See article above). The new DNA testing was completed at a private lab.

3. "Michigan State Police unravel 29-year-old murder using DNA evidence." The Associated Press State & Local Wire, October 2, 2001.  
State police in Michigan said DNA evidence from a murder scene matches evidence from a cigarette butt taken from the primary suspect a year after the killing. The suspect is dead now.
4. "Tougher crime laws among those taking effect." The Associated Press State & Local Wire, October 2, 2001.  
Among the new Montana laws that took effect on October 1 is a requirement for DNA samples from all convicted felons.
5. "OPP Register First Canadian DNA Conviction." Canadian NewsWire, October 2, 2001.  
In Ontario, the first ever Canadian conviction based on the collection of DNA databank evidence has been handed down. A "cold hit" was made on the national database for an unsolved sexual assault in April of 2000 after being picked for another charge in November 2000.
6. "Bode Technology Group to Identify Victims at World Trade Center Country's Largest Private Forensic DNA Lab Contracts with New York." PR Newswire, October 2, 2001.  
Bode Technology Group has entered into agreements with both the State of New York and New York City to perform DNA testing in an effort to identify the victims of the attack on the World Trade Center. In addition, Bode will provide quality assurance testing of work performed by third-party labs.
7. "Tests of crime evidence on hold." Star Tribune (Minneapolis, MN), October 2, 2001.  
Due to the strike by state workers, the state Bureau of Criminal Apprehension will not be doing testing on fingerprint analysis; DNA tests; blood and urine taken to determine blood-alcohol content, and tests to determine illegal drugs. State BCA cases already were backlogged between four and six months before the strike. BCA agents who are not striking will respond to major crimes in the state. Crime lab supervisors also would be called out to collect evidence and do limited lab work.
8. "Bicycle helmets, DNA testing changes become law." The Associated Press State & Local Wire, October 1, 2001.  
Among the new laws coming into effect in North Carolina is a new DNA requirement that allows inmates to seek DNA testing of any biological material previously untested by current DNA testing methods. A judge can allow testing if he or she determines it could provide more assurance to the offender's identity or contradict previous results.
9. "Carbondale, Ill. police plan to exhume serial killer's body." University Wire, October 1, 2001.  
Police in Carbondale, Illinois are filing a petition to exhume the body of a known serial killer to compare his DNA to several unsolved crimes. The sample would be placed on the national database for comparison to other unsolved crimes in other states.
10. "DNA Links Homeless Man To Slain North Side Boy." Pittsburgh Post-Gazette, September 30, 2001.  
In the Pennsylvania trial of a man accused of killing an 11-year old boy, the defense attorney's are challenging the DNA testimony, claiming there was shoddy handling of the evidence by police.
11. "DNA test delays hit legal system." The Gold Coast Bulletin, September 29, 2001.  
In Australia, a magistrate says that delays in testing of scientific evidence (including but not limited to DNA) at government laboratories have caused a quarter of Supreme Court cases to be postponed. The magistrate blamed the delays on the State Government, which does not want to spend the money on forensic science. The Health Department blamed police for being slow to send court exhibits for analysis.
12. "Witness testifies in slaying of girl, 11 Peggy Sue Altes was pinned down by suspect as a 2nd man slashed her throat, court is told." The Indianapolis Star, September 29, 2001.  
In an Indiana trial, a man has been linked to the murder of a woman in 1984 through the state DNA database. Originally, another man was convicted of the crime and was later exonerated after DNA testing showed he did not commit the crime. The DNA sample was then entered into the database and was matched against the current defendant.

13. "Forensic delays frustrate police." The Press (Christchurch), September 29, 2001.  
Investigators in New Zealand are becoming frustrated by delays in getting forensic samples tested in serious crimes. A \$ 3 million purpose-built laboratory for forensic DNA testing planned for Auckland is still at least six months away. Authorities complain that demand for the testing is high, but funding is low.
14. "Fed: Alleged Kelly Gang members to be exhumed for DNA testing." AAP Newsfeed, September 28, 2001.  
The federal government in Australia is planning to exhume the bodies of a gang for DNA testing to determine if they really died in a gun battle in 1880.
15. "Federal Law Minister." The Pakistan Newswire, September 28, 2001.  
In statements about eradicating terrorism, Pakistan's Federal Minister for Law, Human Rights and Parliamentary Affairs Barrister expressed dissatisfaction over current police system and observed they have poor standard of investigations. She noted that they have no facility for blood testing, DNA tests and even do not have material to obtain finger prints of accused.
16. "Argentine health ministry offers to help identify US attack victims." Agence France Presse, September 27, 2001.  
Argentina's Health Ministry has offered to help perform DNA analysis to identify victims of the September 11 suicide attacks on the United States.
17. "Hearing on new DNA evidence postponed." The Associated Press State & Local Wire, September 27, 2001.  
In Ohio, a hearing to determine if new DNA evidence will clear a 13-year prison inmate has been postponed until Cuyahoga County prosecutors can do their own DNA testing. The defense's tests were conducted by a private lab hired by the Innocence Project.
18. "Expert says state DNA testing methods aren't always airtight." The Associated Press State & Local Wire, September 27, 2001.  
In a Minnesota murder trial, an associate professor of biochemistry and medicine at New York University School of Medicine is questioning the ability of state forensic laboratories to definitively identify the sources of a mixed DNA sample. He testified that a sample that does not meet the threshold could be subject to a scientist's subjective interpretation when it comes to identity. A judge is to decide whether the DNA test results will be allowed.
19. "Court Asked To Uphold DNA Ruling Felon Serving 25 Years For Rape." Daily Press, September 27, 2001.  
The Innocence Project has asked a US Circuit Court of Appeals that a Virginia prosecutor in a rape trial violated the defendant's right to due process by refusing to turn over biological evidence for DNA testing. The court is deciding whether to uphold a lower court's ruling that felons have a constitutional right to DNA testing.
20. "Forensics cabinet on cops' wish list." The Chicago Tribune, September 27, 2001.  
In Elmhurst, Illinois, the Public Affairs and Safety Committee recommended the purchase of a forensic drying cabinet, which allows police to prepare evidence (such as DNA) for analysis without the risk of contaminating either the evidence or department staff.
21. "Lawmakers eye possible budget cuts throughout state government." The Associated Press State & Local Wire, September 26, 2001.  
In Arizona, potential cuts to state spending (totaling \$675.1 million for the current state fiscal year and an additional \$858.3 million in the two-year budget's second year) could include the elimination of five new positions to reduce a crime-lab backlog.
22. "Using DNA To Prove Innocence." The Hartford Courant, September 24, 2001.  
Editorial in support of federal legislation to provide inmate access to post conviction DNA testing (Senator Leahy's "Innocence Protection Act"). "Let modern science serve the cause of justice."
23. "Criminal Law and Procedure; Evidence." California Supreme Court Service, September 21, 2001.  
Summary of a "Petition for review after affirmance of judgment as modified" for a case in which the defense argues that the formula used by California DOJ to calculate the statistical significance of DNA matches, the

unmodified product rule, is not generally accepted in the scientific community as to PCR due to problems caused by population subgroups and the relatively small size of PCR databases and is not generally accepted for both RFLP and PCR because a controversy exists as to whether it should be modified to account for laboratory error rates. The court rejected these arguments.

### Genetic Privacy

24. "From Laboratories to Legislatures; laws on genetic testing." State Legislatures, September 1, 2001. Comprehensive overview from the National Conference of State Legislatures on the status of state statutes on genetic privacy.

### Paternity

25. "Need a Visa? Try a DNA Paternity Test." The Moscow Times, October 1, 2001. At least four laboratories in Moscow, Russia currently provide DNA paternity testing. Some Russians are beginning to use these tests for immigration purposes or to prove paternity for travel visas. The labs say they also have prevented many abortions by reassuring the mother of who the father is.
26. "Fight keys on DNA tests, state paternity law." Chicago Daily Law Bulletin, September 25, 2001. The Illinois Supreme Court is attempting to sort out whether men who want to contest findings that they fathered a child need DNA test results before using a new law to release them from child support obligations. The state Assistant Attorney General is arguing that trial judges do not have the authority to order paternity tests in child support proceedings under the law. Only when the mother voluntarily submits to those tests can the legal father proceed using the law.
27. "Man allowed to contest paternity via DNA tests." Chicago Daily Law Bulletin, September 25, 2001. In Illinois, an appeals court reversed and remanded a lower court's decision that a man who was deemed by a judge to be the natural father of a girl in 1992 could not pursue his lawsuit to establish non-paternity based on DNA tests conducted six years later that showed he was not the father.

### Agriculture

28. A Mexican government investigation has discovered that some of Mexico's native corn varieties have been contaminated with genetically engineered DNA.
29. From Lawyers Weekly – "So it becomes a trade-off: Accept the process-based labelling and traceability rules in exchange for getting access to the EU market for genetically modified agricultural crops that have not yet got EU approval. Or give the "thumbs-down" to the regulations, challenge them at the WTO and see if the EU will listen when the WTO says that the rules violate WTO law."
30. Scientists from Denmark and Germany have used DNA tests of cod, a fish that is severely depleted in many fishing grounds, to identify where individual fish come from. The tests may help catch poachers
31. The Aberystwyth Institute is now running a feasibility study for the Welsh Assembly, investigating the viability of a national DNA traceability scheme for sheep.
32. An attorney specializing in liability says that managing liability for genetically engineered crops following the StarLink incident will be a major headache for biotechnology companies and farmers.

### Industry News

33. Scores of biotech companies and academic labs have long been working on projects to combat bioterrorism -- developing new vaccines, antibiotics and compact detection devices. Some of the companies are typing DNA

from microbes.

34. Commonwealth Biotechnologies Inc., Richmond, has signed a new contract with a government sponsor to perform detailed DNA sequence analyses of particular organisms for the purpose of strain differentiation. The new contract is in addition to two other recently signed contracts. In total, these contracts are expected to bring in over \$2 million in revenue for the company over the next year.
35. The Environmental Investigation Agency (EIA) said nearly half of all allegedly whale meat products bought for analysis in 42 of 47 prefectures in Japan last year turned out to be the flesh of small cetaceans, including dolphins and small whales. Subsequent independently commissioned studies, using DNA analysis, identified seven out of 14 products as actually being from small cetaceans.
36. Authorities are considering compulsory ID cards for organ donors. The cards would carry a photograph, address, date of birth “and possibly other personal details such as DNA make-up or fingerprints.”
37. Orchid BioSciences Inc. said Friday it has received a \$4.8 million, three-year contract to develop technology to synthetically manufacture DNA molecules needed for various types of genetic analyses.
38. From the San Francisco Chronicle, “Bioterrorism defenses being developed; Bay Area companies collaborate with federal agencies.”

#### **CONGRESSIONAL RECORD**

1. Representative Maloney introduces H.R. 2874 -- A bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes; to the Committee on the Judiciary.

#### **FEDERAL REGISTER**

1. Health Resources and Services Administration -- Announcement of a Cooperative Agreement for Assessing the Provision of Genetic Services and Factors Affecting the Supply and Demand for Genetic Services.