

# DNARESOURCE.COM

Smith Alling Lane, P.S. provides governmental affairs services to Applied Biosystems. As part of this representation, the firm generates weekly reports on state and federal legislation and news articles. Applied Biosystems has authorized Smith Alling Lane to make these reports publicly available through this website. The information presented in these reports does not necessarily reflect the viewpoints of Applied Biosystems or Smith Alling Lane, P.S.

The December 21, 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

A candidate for Attorney General in Iowa is calling for an all-felons offender DNA database. "Cold hits" on DNA databases have solved attacks in Ohio and Oregon, and linked several Colorado attacks to an attack in Texas.

A bill to extend the statute of limitations when DNA evidence is available has been introduced in Florida. A similar bill in New Jersey could become law soon, and similar language is included in a Massachusetts victim's rights bill. Philadelphia prosecutors are filing rape charges against DNA profiles.

A post conviction DNA bill may become law soon in New Jersey. New DNA testing has lead to exonerations in Texas and Indiana, and has cleared a suspect in Ohio.

The Czech Republic is now operating a forensic DNA database. Queensland, Australia's offender DNA database program has become very successful. DNA identified a rapist after routine sampling on a domestic disturbance call. A killer was released in Scotland after it was discovered that police illegally used DNA from an unrelated investigation to identify the murderer.

## STATE LEGISLATION

### Forensic DNA

1. Florida HB 655 -- Provides that the statute of limitations does not apply to an offense if the alleged perpetrator of the offense is identified by analysis of DNA evidence collected at the crime scene by law enforcement personnel.

### Genetic Privacy / Genetic Research

2. Maryland HB 67 -- Prohibits genetic discrimination in coverage, benefits, or determination of disability in workers' compensation.
3. Maryland HB 72 -- Establishes a State Advisory Council on Bioscience Issues and Concerns for the purpose of advising both the General Assembly and the Governor with regard to scientific issues and pending legislation.
4. Missouri SB 803 -- Amends current genetic non-discrimination law. Further restricts use of genetic information by insurance companies.
5. Utah HB 56 -- Prohibits employers from using private genetic information for hiring and promotion purposes. Places restrictions on health insurers' use of genetic information with limited exceptions.

### Paternity

6. Maryland SB 3 -- Establishes procedures for handling abandoned newborns. Requires genetic testing if the mother comes forward later to claim the child.

## NEWS ARTICLES

### Forensic DNA

1. "DNA database links crims with crimes." Ayr Advocate, December 19, 2001.  
In Queensland, Australia, more than 100 people on the new DNA database have been linked to other crime scenes in the first full year of sampling. A total of 320 crime to crime matches have been made.  
\$1.887 million has been appropriated to the Queensland Police Service in the 2001/02 budget for DNA testing and equipment. A total of 2538 people in Queensland prisons and 7541 people held in local jails on an indictable offenses have been DNA tested to date.
2. "Why state executions are dropping." The Christian Science Monitor, December 19, 2001.  
For the first time since the death penalty was reinstated a quarter century ago in the US, the number of executions has fallen for two consecutive years. 17 states enacted laws that provided greater access to DNA testing, and 18 states introduced bills to place a moratorium on executions, though none passed.
3. "\$1.1 million for wrongful conviction in 1992 rape." The Gazette (Montreal), December 19, 2001.  
In one of Canada's largest wrongful-conviction settlements ever, the federal government has paid \$1.1 million to an Alberta man who spent more than four years before being exonerated through DNA testing. He had been convicted of a violent sexual assault against his niece.
4. "Green River suspect pleads not guilty: Defence calls DNA evidence 'dubious'." The Ottawa Citizen, December 19, 2001.  
In Washington, the Green River serial killer has pleaded not guilty to charges of committing four of the 49 Green River killings in the 1980s. His lawyers have vowed to disprove the DNA evidence allegedly linking him to the crimes. They consider the DNA evidence to be dubious because it was so old they will look closely at how it was handled.
5. "Ridgway defense gets nearly \$300,000 for own DNA testing." The Associated Press State & Local Wire, December 18, 2001.  
In Washington, the defense team the man charged in the deaths of four victims in the Green River serial killings case has been awarded nearly \$300,000 by a judge for independent DNA testing and analysis.
6. "Inmate who expected parole indicted through DNA database." The Associated Press State & Local Wire, December 18, 2001.  
In Ohio, a man who expected to be released from prison last week was among three inmates indicted on rape charges through the state's collection of DNA samples from prisoners. He was scheduled to receive parole after serving time for a 1994 aggravated burglary conviction. The other two inmates are still serving time on previous rape convictions.
7. "DNA database to be established in Fort Worth." The Associated Press State & Local Wire, December 18, 2001.  
The University of North Texas Health Science Center received a \$1 million grant recently to establish and operate a statewide missing persons DNA database. The is for two years and comes from the attorney general's Crime Victim's Compensation Fund. The center will focus first on cases involving children.
8. "City Gives Go-Ahead To Countywide Crime Unit." The Charlotte Observer, December 18, 2001.  
In York County, North Carolina, police hope to collect better evidence and analyze it faster by forming a single countywide crime-scene unit. For the time being, DNA evidence will still be sent to the state lab for analysis, however, the county hopes to do DNA testing in-house someday.

9. "DNA Traps Rapist 10 Years On." The Express, December 18, 2001.  
In the UK, a serial rapist who terrorized a town in the early 1990's was identified by DNA testing and plead guilty in court to the crimes. The man was originally arrested for a domestic dispute and a routine DNA sample that was taken later linked him to the crime was taken
10. "DNA Tests Clear 3 Suspects In Guatemala Killing." St. Louis Post-Dispatch, December 18, 2001.  
Nearly two years after the murder of a Missouri journalist in Guatemala, DNA test results have ruled three of his friends as suspects. A blood stained towel was found near the murder scene, which does not match the victim nor any of the three former suspects.
11. "New DNA tests in Irish hunt for killer of French TV producer." Agence France Presse, December 17, 2001.  
New DNA tests are being conducted on samples of blood taken from the scene of the murder of a French TV producer in southwest Ireland almost five years ago.
12. "Attorney general candidate wants DNA database." The Associated Press State & Local Wire, December 17, 2001.  
An Iowa State Representative who is seeking the Republican nomination for attorney general has said he wants to expand the offender DNA database to include all convicted felons. He said an expanded DNA database could not only be used to convict people of crimes, but also could exonerate the innocent.
13. "DNA reversal of two murder convictions casts doubt on Lake Waco Murders." The Associated Press State & Local Wire, December 17, 2001.  
In Texas, new DNA evidence pointing to wrongful convictions in a 1986 rape-murder gives new validity to claims of innocence of a man who was executed for murder in 1982. There are several similarities between the 1986 and 1982 murders, including the fact that the two victims were mother and daughter.
14. "Albanian Doctors Learning Forensics To Identify Victims." The Express, December 17, 2001.  
Some Albanian doctors are studying at Dundee University in Scotland to become pathologists. Their training will include collection of DNA, and their mission when they return home will be to help identify the dead in Kosovo.
15. "Legislators To Take Up Measures on DNA, Profiling and Public Access." New Jersey Law Journal, December 17, 2001.  
The New Jersey legislature is working on several DNA measures that could become enacted soon. S-1516, would allow the statute of limitations to toll until investigators obtained DNA evidence that could link someone to the crime. The Senate passed the bill without opposition earlier this year. And an Assembly committee has voted to recommend passage of S-1920, which would allow inmates to request post conviction DNA testing. The bill also would require the DNA sample to be placed in the state offender database.
16. "City Issues DNA Warrant in Rape Case." Pennsylvania Law Weekly, December 17, 2001.  
Philadelphia prosecutors have filed charges against the DNA of an unknown man believed to be responsible for six rapes in 1997 - 1999, one of which led to murder. Police have also matched the rapist's DNA to another sexual assault that occurred in Colorado this year. In the past month, Philadelphia police have filed 11 DNA warrants against four different suspects.
17. "Jacques, Balsemer Push 'Bill Of Rights' For Rape Victims." The Boston Globe, December 16, 2001.  
Two Massachusetts legislators are promoting a victim's rights bill which includes a provision to create a one-year window for criminal indictments or civil actions to be brought in sexual assault cases when conclusive DNA evidence is uncovered after the statute of limitations has expired.
18. "DNA test clears man in '85 rape." The Dallas Morning News, December 16, 2001.  
A man in Tarrant County, Texas has been released from prison after post conviction DNA testing exonerated him of committing a rape in 1985. The testing was completed with the help of legislation enacted this year that allows defendants to ask for new DNA tests if identification was an issue at trial and if today's improved testing

technology was not available at the time.

19. "Mimi Wesson discusses the advances in DNA science." National Public Radio (Weekend Edition Sunday), December 16, 2001.  
NPR interview with author and professor Mimi Wesson on the issue of forensic DNA and its use in the criminal justice system. Discussion covers both post conviction issues and the use of DNA to identify previously unidentified suspects.
20. "DNA links Boulder rapist to assault in Texas." The Associated Press State & Local Wire, December 15, 2001. Authorities in Boulder, Colorado have been informed that the FBI's CODIS has matched DNA samples collected from several area assaults to an unsolved 1995 sexual assault in Austin, Texas. "It will open doors to parts of the investigation we would not have known about if we didn't get the link."
21. "DNA links a suspect to fatal car wreck." Kansas City Star, December 15, 2001.  
In Kansas City, Missouri, DNA on a deployed air bag helped lead authorities to charge a man in a fatal hit-and-run accident.
22. "DNA Database Launched In Czechrep With Help Of U.S." CTK National Newswire, December 14, 2001.  
The FBI has finished installing software (CODIS) at the Czech Republic's National Criminological Office to help the country launch a national DNA database. The agency began entering frozen DNA samples acquired in the past five years from crime scenes immediately the launch of the system.
23. "National DNA Database Programme Reveals First Criminal." CTK National Newswire, December 14, 2001.  
In the Czech Republic, experts from the Criminalistics Institute have caught their first criminal through the national DNA database. "A man who committed a rape in Most, north Bohemia, in 1998 was identified on the basis of a DNA analysis today." The Interior Minister asked the FBI to provide the Czech Republic with the computer system (CODIS) which enables the operation of a national DNA database. The FBI provides the system free to countries which show interest in it and meet required conditions (such as appropriate laws in place).
24. "Killer is freed over a disputed DNA sample." Daily Mail (London), December 14, 2001.  
In Scotland, a man who was convicted of murder has been released from prison after a dispute over DNA evidence. The DNA evidence used to link the man to the crime had been collected during the investigation of an unrelated crime for which the man had been charged. Under the terms of the Criminal Procedure (Scotland) Act 1995, DNA samples must be destroyed if the donor is acquitted and cannot be used in unrelated crimes.
25. "Cold Case squad reopens murder inquiry." Albuquerque Tribune, December 13, 2001.  
In New Mexico, a cold case squad has solved a 1992 murder after new DNA tests confirmed the identity of one of the case's primary suspects. DNA tests had been performed many years ago, but the technology at the time was not precise enough to convict.
26. "Valley leaders have legislators' ears Fire, school, Sheriff's officials among those with input for lawmakers." The Spokesman-Review, December 13, 2001.  
Law enforcement leaders in Eastern Washington are concerned about the Washington State Crime lab in the Spokane County Public Safety Building. The lab is cramped and there is a backlog of some 250 cases. Some evidence has been contaminated because lab technicians are working in a lab that is about one-fifth the size that they really need. The Spokane sheriff's office expects to spend an extra \$80,000 for DNA testing at private labs next year, and is asking legislators to encourage the Governor to appropriate money for lab improvements in the state's 2001 capital projects budget.
27. "DNA Clears Man of Rape Charges." AP Online, December 12, 2001.  
In South Bend, Indiana, a man who had been cleared of rape charges by DNA evidence has been freed after serving more than five years of a 70-year prison sentence. The man had always maintained his innocence and another man recently confessed to one of the rapes. He was finally cleared when DNA testing that was not available when he was convicted came back showing he could not have committed the 1996 attack.

28. "DNA sample clears rape suspect." The Associated Press State & Local Wire, December 12, 2001.  
In Ohio, a rape suspect was cleared when a DNA genetic sample proved the man was not the attacker. The attack occurred one day after the man had escaped from the Community Treatment & Correction Center, and the victim had identified the suspect as her attacker. Because he had a prior rape arrest and other convictions, the indictment against the man included a repeat violent offender specification that could have imprisoned him for life.
29. "DNA evidence leads to arrest in rape case." The Associated Press State & Local Wire, December 12, 2001.  
An Oregon man was arrested after the state DNA database linked him to the attack of a woman who was drugged and raped in her home. The man's DNA was on the state database due to a burglary conviction in 1997.
30. "Countywide policy set for rape exams." South Bend Tribune, December 4, 2001.  
In St. Joseph County, Indiana, all three hospitals have agreed to adopt consistent procedures in collecting physical evidence from victims of sexual assault. The new procedures worked out by the hospitals, police agencies and victim advocates provide a means to collect "Jane Doe" kits from victims who aren't sure whether they want to file a police report. The "Jane Doe" kits will be maintained for 90 days, in case the victim decides to talk to police.

#### Genetic Privacy

31. "Concern over genetic information falling into hands of employers or health insurers and being used against people." Marketplace Morning Report, December 18, 2001.  
"If you had the genetic markers for a certain disease--maybe it's fatal; maybe it's not--would you want to know? More importantly, would you want your boss or your insurance company to know?"
32. "Age of New Genetics Tests Familiar Legal Concepts." New Jersey Law Journal, December 17, 2001.  
Lengthy article -- discusses topics of confidentiality and duty to warn; truly informed consent; and the workplace.
33. "State Debate Is On Over Human Clone Research Legislators Quiz Research Experts." The Boston Globe, December 13, 2001.  
Legislators in Massachusetts are giving weighty consideration of the regulation of human cloning research -- debating whether to allow the controversial procedure for medical purposes or ban it outright.

#### Paternity

34. "Court: DNA test alone is sufficient to establish paternity." The Associated Press State & Local Wire, December 18, 2001.  
The Nebraska Court of Appeals has ruled that a genetic test is enough to prove an Omaha man fathered a child, even though there was no evidence he ever had sex with the baby's mother. The man said he'd never met the woman who claimed he fathered her child in 1992 and was demanding financial support. The case was appealed after a judge - considering only a genetic test and no other evidence or testimony - declared him the father. State law says genetic tests are a "rebuttable presumption of paternity" that "shall be admissible evidence and ... weighed along with other evidence of paternity."