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The April 27, 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

The Michigan Legislature is considering a package of DNA bills to expand the state's offender DNA database to include all convicted felons, and similar measures in Washington, DC, Arizona, Nevada and Connecticut are moving forward. A New York bill has been introduced to require DNA samples from anyone charged with a felony or class A misdemeanor.

The Colorado Supreme Court has ruled in favor of allowing prosecutors to use new DNA testing methods and test results in trials (this reversed a lower court's decision). Expanded DNA collections by police was debated by experts (Peter Neufeld and Howard Safir) in New York. Colorado and California received assistance in solving crimes through cold hits on offender DNA databases (California connected a crime to a man in a Florida prison).

A bill eliminating the statute of limitations when DNA evidence is available has been signed by the Governor in Texas, and a more limited version of this measure has been passed by the Oregon House.

In North Carolina, a post conviction DNA testing bill is receiving widespread support, and post conviction measures in Nebraska and Louisiana are moving forward.

Comprehensive articles on DNA analysis issues and the criminal justice system were reported in the American Bar Association Journal and The Tennessean.

Malaysia is looking into establishing an offender DNA database. An Australian lawmaker is calling for DNA samples upon birth, and some Australian prisoners are challenging a state's authority to collect their DNA. English authorities are crediting forensic DNA with the recent boost in police morale. Canada's Supreme Court has denied an inmate's challenge to DNA collection methods used by police.

## STATE LEGISLATION

### Forensic DNA

1. Massachusetts HB 4100 – Appropriates funding for improvements at the Boston Police DNA Lab
2. Michigan HB 4609 -- Expands offender DNA database to include felony convictions for adults and juveniles.
3. Michigan HB 4610 -- Expands offender DNA database to include all felonies. Tied to HB 4611, 4612, 4613, and 4633.
4. Michigan HB 4611 -- Expands offender DNA database to include all felons (amends the probate code). HB 4610, 4612, 4613, 4614, and 4633.
5. Michigan HB 4612 -- Expands offender database to include all felons. Tied to HB 4610, 4611, 4613, 4614, 4633.

6. Michigan HB 4613 -- Expands offender DNA database to include all felons (amends penal code). Tied to HB 4610, 4611, 4612, 4614, 4633.
7. Michigan HB 4614 -- Expands offender DNA database to include all felons (amends "juvenile facilities act"). Tied to HB 4610, 4611, 4612, 4613, 4633.
8. Michigan HB 4633 -- Expands offender DNA database to include all convicted felons (amends youth rehabilitation act). Tied to HB 4610, 4611, 4612, 4613 4614.
9. Michigan SB 389 – Expands offender DNA database to include felony convictions for adults and juveniles, as well as certain violent misdemeanors (amends DNA identification profiling act). Tied to SB 390, 391, 392, 393, 394.
10. Michigan SB 390 – Prisoners may not be released on probation, parole, or otherwise discharged until a DNA sample has been submitted.
11. Michigan SB 391 -- Expands offender DNA database to include all convicted felons plus some violent misdemeanors (amends penal code). Tied to SB 389, 390, 392, 393, 394.
12. Michigan SB 392 -- Amends probate code to require DNA samples for all felony convictions, plus some violent misdemeanors. Tied to SB 389, 390, 391, 393, & 394.
13. Michigan SB 393 -- Amends "juvenile facilities act" to require DNA samples from juvenile felony offenders, and for certain violent misdemeanors. Tied to SB 389, 390, 391, 392 & 394.
14. Michigan SB 394 -- Requires DNA samples for all felony convictions, plus some violent misdemeanors (amends "Youth Rehabilitation Services Act). Tied to SB 389, 390, 391, 392, 393.
15. New York SB 4459 – Expands offender DNA database to include any person charged with a felony or class A misdemeanor. Establishes a violent criminal DNA database.

#### Genetic Privacy

16. Iowa HCR 29 -- Authorizes the personal privacy issues study committee to continue deliberations during the 2001 legislative interim. Topics for study include genetic testing information.

#### Paternity

17. Michigan HB 4635 – Allows for relief from child support payments if genetic tests prove a man is not the biological father of a child.
18. Minnesota HB 2478 & SB 2335 – “Uniform Parentage Act” – provides specifications for genetic testing in paternity cases.

### **NEWS ARTICLES**

#### Forensic DNA

1. “Politician wants babies' DNA taken to prevent crime.” AP Worldstream, April 25, 2001.  
A legislator in Brisbane, Australia recently said that children should have DNA samples taken upon birth in order to build-up the national DNA databank that police use to solve crimes. The legislator believes that the records would be kept in total secrecy, and that “if you are not a criminal you would have nothing to worry about.”

2. "Crime & Justice." The Washington Post, April 25, 2001.  
The Washington, DC City Council Judiciary Committee has approved legislation to establish an offender DNA database that would include 25 crimes, including first- and second-degree murder, robbery, sexual abuse, cruelty to children and carjacking. The Council will vote the bill on in May.
3. "Hull signs budget but cuts spending, warns of more." The Associated Press State & Local Wire, April 25, 2001.  
The Arizona budget includes \$600,000 for a bill to expand the state's DNA database to include more felons.
4. "Panel approves DNA testing bill." The Associated Press State & Local Wire, April 24, 2001.  
A Louisiana Senate Committee has approved a bill that would allow convicted felons greater access to post conviction DNA testing until August 2003. Preliminary fiscal estimates assume an annual cost to the state of \$200,000.
5. "Bills restrict executions, require DNA testing in Nevada." The Associated Press State & Local Wire, April 24, 2001.  
The Nevada Assembly has passed a bill to expand the state's offender DNA database to require DNA testing of all convicted felons. The bill now goes to the Senate for consideration.
6. "Court revises evidence standard Ruling allows new technology." The Denver Post, April 24, 2001.  
In a unanimous ruling, the Colorado Supreme Court has overturned a lower court's decision that blocked prosecutors from using DNA test results gained from new DNA technology. The Supreme Court's ruling is will provide a more flexible legal standard by which judges are to analyze scientific developments and determine their admissibility. The ruling is expected to permit the latest advancements in scientific technology to be used in Colorado courtrooms with minimal delay.
7. "Prisoners launch legal battle against DNA testing." AAP Newsfeed, April 23, 2001.  
Four prisoners in Queensland, Australia are challenging the state's DNA database law at the state Supreme Court in Brisbane. In Queensland, police may collect DNA samples only for convictions of indictable offenses. The four prisoners were all convicted of indictable offenses, but only in the magistrates court, and the magistrates court has jurisdiction to find verdicts and impose sentences on a range of minor offenses without referring them to the District or Supreme Court. Since their cases were not referred, the prisoners argue that their crimes were treated as minor offenses and therefore they should not have to submit DNA samples.
8. "Broad DNA testing gets support from both sides of law, legislators." The Associated Press State & Local Wire, April 23, 2001.  
A bill to allow greater access to post conviction DNA testing is receiving a lot of support in North Carolina. The bill would also allow defendants access before trial to crime scene DNA samples and any analysis of those samples performed by the state. A defendant also could ask a judge to have the DNA from a crime scene be checked against state and federal DNA databases to see if the DNA points to another criminal.
9. "Highlights Monday from the Texas Legislature." The Associated Press State & Local Wire, April 23, 2001.  
The Texas Governor has signed a bill that eliminates the statute of limitations for prosecuting certain sexual assault cases in which investigators find matter that can be subjected to DNA testing.
10. "Police Chiefs Fear Crime Lab Snub." The Daily News of Los Angeles, April 23, 2001.  
Police Chiefs in Los Angeles County (California) are concerned that they are being left out of the planning process for a new \$96 million county crime lab. Local agencies have been sending DNA casework to private labs because of the 1,900 DNA sample backlog at the county lab. Planning should be done in a year and construction on the new lab will take a few more.
11. "Ruling on DNA is hailed in Utah." The Deseret News (Salt Lake City, UT), April 23, 2001.  
Utah prosecutors and crime labs are supportive of the recent federal court decision that convicted felons have a constitutional right to DNA testing. However, there is concern that "across the board" testing for all felons would be over-burdensome and too expensive. "It will bury crime labs with defense requests and active law

enforcement cases will be put on the back burner."

12. "Michigan Legislative Preview." The Associated Press State & Local Wire, April 22, 2001.  
The Michigan Senate Judiciary Committee was scheduled to meet this week to discuss several bills that would expand the state's offender DNA database.
13. "DNA Links Inmate To 1980 Slaying." Los Angeles Times, April 20, 2001.  
A "cold hit" has linked a Florida inmate to a murder committed in Orange County (California) in 1980. The man is serving 10 years in a Florida for attempted murder.
14. "Cash boost aids police." UK Newsquest Regional Press - This is Wiltshire, April 20, 2001.  
In Bath (England), police are receiving £650,000 which will pay for state-of-the-art DNA testing and to extend the force's computer investigation system. "The money will enable the force to submit 600 extra samples for 'low copy number' DNA tests which police hope will bring more convictions." Discusses LCN testing.
15. "House extends statute of limitations for rape." The Associated Press State & Local Wire, April 29, 2001.  
In Oregon, the House of Representatives has voted in favor of extend the statute of limitations for prosecution of rape cases from 6 to twelve years if DNA evidence is available.
16. "DNA Links Sex Offender To 1999 Slayings." Rocky Mountain News (Denver, CO), April 19, 2001.  
Authorities in Colorado have solved two murders from 1999 through a "cold hit" on the state's offender DNA database. The suspect was convicted of molesting a child in 1996 and was placed on probation. When he recently violated his probation, he was ordered to submit a DNA sample for the state's offender database, which was subsequently matched to the unsolved murders. Police are also looking into several similar unsolved homicides to see if the man can be linked to them.
17. "DNA Testing Gets Initial Nod." Omaha World-Herald, April 19, 2001.  
A Nebraska measure to allow inmates greater access to post conviction DNA testing is progressing in the Legislature. The bill requires the state to pay for testing, and some lawmakers are concerned about whether it could lead to frivolous court appeals and whether the measure would have a hefty price tag. Last summer, the Nebraska Supreme Court ruled that under current law the state cannot be forced to pay for DNA tests.
18. "Deputies: DNA in trash pinpoints killer." The Tampa Tribune, April 19, 2001.  
Police in Florida have solved a 1989 murder after DNA tests, secured from items in suspect's trash can, were a positive match against the crime scene evidence. The man lived in the victim's apartment complex and first became a suspect when he was the only neighbor to balk at giving police a saliva sample during their investigation.
19. "DNA detection boosts morale." UK Newsquest Regional Press - This is Brighton and Hove, April 19, 2001.  
In Sussex (England), the county's chief constable credits operations to arrest crime suspects based on DNA testing with boosting morale among local police officers. Recently, in one five-day period, a total of 97 arrests were made for offenses ranging from non-payment of fines to attempted murder.
20. "Texas to get \$ 28 million for DNA crime labs." University Wire, April 19, 2001.  
US Senator Phil Gramm said that Texas would receive \$28 million in federal funding under the National Forensic Science Improvement Act. The grant program would appropriate \$ 512 million over a 6 year period to state crime labs. Of this, 75 percent will be given based on each state's population. The remaining \$ 128 million would go to high-crime areas designated by the U.S. Attorney General. [This funding has only been authorized; Congress still must appropriate it]. Gramm was also supportive of Texas Senate Bill 638, which would allow police to take DNA samples for fingerprintable arrests.
21. "Judiciary Committee approves bills on gun control, drunken driving and sexual assault." The Associated Press State & Local Wire, April 18, 2001.  
The Connecticut Judiciary Committee recently passed a number of measures, in order to meet a legislative deadline for moving bills out of the committee. One of the approved measures would expand the state's offender DNA database to include all convicted felons.

22. "Businesses lead creation of fund for crime rewards." Star Tribune (Minneapolis, MN), April 18, 2001. Target Corp. has agreed to purchase \$260,000 worth of DNA testing equipment for Minnesota's Bureau of Criminal Apprehension crime lab that will open in Bemidji in August.
23. "DNA Testing Can Be A Dirty Job." The Tennessean, April 15, 2001. Lengthy article that discusses the job DNA lab testing, with a spotlight on the private lab Lifecodes. Mentions the prevalence of DNA testing in societal cases (such as establishing paternity or infidelity), and in criminal cases (in establishing both guilt and innocence.)
24. "Experts Debate Law, Ethics Of Genetic 'Fingerprinting'." New York Law Journal, April 13, 2001. Attorney Peter Neufeld and former New York City Police Commissioner Howard Safir debated the expanded use of DNA testing by law enforcement. Neufeld is currently representing a client who was cleared of sodomy charges and has been attempting to get his DNA sample returned from the Medical Examiner's Office. Safir argued that DNA samples should be required for fingerprintable arrests, noting that "the innocent have nothing to fear."
25. "Chemistry Department Asked To Set Up DNA Data Bank." Malaysia General News, April 9, 2001. Malaysia's Science, Technology and Environment minister has recently said that Malaysia should establish a DNA database to help it catch criminals. The databank would be set up by the Chemistry Department.
26. "The Great Detective." American Bar Association Journal, April 2001. Notes that the emergence of exonerating DNA testing "can throw what seemed like an airtight case into a prolonged limbo." Discusses all aspects of forensic DNA testing in criminal justice, including post conviction testing, offender DNA database, John Doe warrants and the statutes of limitations.
27. "Supreme Court of Canada denies appeal by south Edmonton serial rapist." Canadian Press Newswire, March 30, 2001. Canada's Supreme Court has denied an appeal by a convicted serial rapist without comment. The man wanted to challenge the way the police acquired DNA from cigarette butts after being interviewed. He was convicted largely on the basis of the DNA evidence.
28. "Roadside DNA tests by police coming soon, Toronto forensic seminar told." Canadian Press Newswire, March 22, 2001. At a recent seminar, delegates were told that police will be able to conduct roadside DNA tests in the not too distant future. A speaker noted that Britain is expected to have the technology to allow officers to conduct roadside DNA tests within the next 18 months.

#### Genetic Privacy

29. "Insurers review gene-test code." South China Morning Post, April 23, 2001. The Federation of Insurers will bring a British geneticist to Hong Kong next month to advise life insurers whether their code of practice on genetic testing needs to be revised. The federation said its members were not yet asking clients for the results of genetic tests, but they might soon start doing so.
30. "Genetic privacy on lawmakers' agenda." The Associated Press State & Local Wire, April 22, 2001. The Oregon Senate Judiciary Committee is working on a bill that would expand privacy protections in state law covering DNA and other genetic information. Protections would be extended to relatives of people from whom genetic information was obtained. Violations would carry up to one year in jail, and victims could sue and collect civil penalties of up to \$250,000 for misuse of genetic information "for commercial advantage, personal gain or malicious harm."
31. "Railroad, government settle lawsuit." The Bismarck Tribune, April 20, 2001. Burlington Northern Santa Fe Railway Co. settled a federal lawsuit by agreeing to stop genetic testing of employees and promising not to discipline workers who complained. The railroad also said it would preserve

blood samples, results and other data related to the testing until federal investigators conclude an inquiry into workers' discrimination complaints.

32. "Senate bill would stave off cloning of humans." The Houston Chronicle, April 20, 2001.  
A bill in the Texas legislature to prohibit human cloning is spurring a debate between scientists and anti-abortion activists over the issue of when life begins. The scientists are concerned that the bill would prohibit current research techniques of inserting the nucleus containing DNA into an egg.
33. "Britain Proposes Law Against Cloning Of Humans." Los Angeles Times, April 20, 2001.  
Britain may soon become the first country to make human cloning a criminal offense. The move is expected to win the government more favor from British voters.