

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 September 7 and September 14, 2001 DNA legislative and media report are listed below (combined as one report).

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 Tennessee DNA database is coming online and Wisconsin's DNA database is becoming increasingly successful since the state expanded the database to include all convicted felons. Indiana's lab is facing mounting backlogs of DNA evidence due to budget cuts. The Wisconsin Supreme Court will hear an appeal on the admissibility of DNA science used to convict a rapist.

A US Congresswoman from New York and a State Senator in Pennsylvania are each introducing legislation in their respective chambers to standardize sexual assault kits and provide funding for subsequent DNA testing. An Oklahoma lawmaker is drafting legislation to extend the statute of limitations when DNA evidence is available, and a similar measure recently enacted in Texas draws criticism from local defense lawyers.

New Jersey is considering a \$300,000 appropriation to pay for post conviction DNA testing, and the federal "Innocence Protection Act" legislation continues to build momentum.

Police and prosecutors in Canada are pushing the federal government for an expansion of the DNA database. The Panamanian government has signed a contract with a private US forensic laboratory to establish a DNA database. An international conference in Australia discussed the use of DNA in the criminal justice system.

STATE LEGISLATION

Forensic DNA

1. New Jersey SB 2489 - makes a Fiscal Year 2002 supplemental appropriation of \$ 300,000 to the Office of the Attorney General in the Department of Law and Public Safety to fund the Post-Conviction DNA Testing Program.

Paternity

2. Florida HB 73 (prefiled) – Requires DNA paternity testing in all divorce and child support cases.

NEWS ARTICLES

Forensic DNA

1. "Chief Backs DNA Testing For Busts." The Calgary Sun, September 12, 2001.
The Canadian Association of Chiefs of Police is pushing for DNA testing to be allowed in drug busts. The police believe that the ability to take DNA from such drug busts will increase police authorities ability to identify culprits by matching DNA found at grow operations, for instance, to potential culprits.
2. "11 executed over suspect evidence." Herald Sun, September 12, 2001.

A 21-year veteran chemist and expert witness for the Oklahoma City police whose DNA evidence helped send 11 people to the death chamber, could be prosecuted for shoddy work and false or misleading testimony.

3. "DNA detectives." The Advertiser, September 11, 2001.
A South Australia newspaper reports that the country's new national DNA database is becoming the most effective police weapon in solving crime. Discusses a case in which DNA evidence was used to identify a rapist, and at the same time cleared several other suspects.
4. "Former Nevada death row inmate jailed on second murder charge." The Associated Press State & Local Wire, September 11, 2001.
A man who spent 20 years on Nevada's death row for a murder he says he didn't commit was formally charged in a second 1978 killing of the victim's girlfriend based on DNA evidence thrown out of the first case. The man was out on bail after the State Supreme Court threw out his earlier conviction. At a pretrial hearing for the retrial case earlier this year, a County District judge refused to allow into the case as evidence new DNA testing of blood found on the inmates shoes. However, the judge he could not rule on whether the DNA evidence would be used in the second case.
5. "Irvin Saliva Sample Taken in Drug Case." The New York Times, September 11, 2001.
Texas authorities working on a drug case against the former Dallas Cowboys receiver Michael Irvin have obtained a saliva sample from him after executing a search warrant. Prosecutors want to test the saliva against DNA from a marijuana cigarette found when Irvin was arrested.
6. "Justice ministers call for sex offender registry: Resolutions also call for changes in DNA database law." The Ottawa Citizen, September 11, 2001.
In Canada, provincial and territorial justice ministers have agreed on resolutions that call on the federal government to stop stalling on establishing a national sex offender registry and to tighten loopholes in its DNA databank legislation.
7. "DNA under microscope at justice forum." AAP Newsfeed, September 10, 2001.
The use of DNA evidence in the criminal justice system was discussed at an international conference in Adelaide, Australia. The conference intends to help prosecutors, judges, defense lawyers, scientists and others understand the technology involved in DNA profiles. About 170 people were expected to attend the conference from the United Kingdom, Ireland, Canada, New Zealand, Fiji, Namibia and Australia.
8. "Lawmaker to introduce bill to extend statute of limitations in DNA cases." The Associated Press State & Local Wire, September 10, 2001.
An Oklahoma lawmaker intends to propose legislation to change the statute of limitations for cases involving genetic evidence. The current statute of limitations for the prosecution of rape in Oklahoma is 9 years. The lawmaker was inspired by a recent case in which a man wrongly convicted for rape has been exonerated and new tests on the DNA evidence has been shown to match an inmate currently in prison. However, the statute of limitations has now expired for the crime.
9. "DNA work in prisons paying off; Samples from felons help solve rape cases." Milwaukee Journal-Sentinel, September 10, 2001.
Wisconsin's 20-month-old effort of obtaining DNA samples from imprisoned felons is beginning to solve old rape cases in Milwaukee County, where four convicts have been charged this summer with committing attacks that occurred in 1995. Authorities also have tentatively linked six more imprisoned felons to Milwaukee County rapes through DNA sampling in the prisons. The largest stumbling block to solving more such crimes in the state is reported to be "a lack of personnel at the lab to process DNA evidence from no-suspect cases.
10. "Law Would Aid DNA Testing." Newsday (New York, NY), September 10, 2001.
U.S. Rep. Carolyn Maloney plans to introduce legislation to standardize evidence kits for sexual assaults and ensure that forensic labs complete all DNA testing within 10 days of receipt – states would have 5 years to comply. The bill would authorize \$150 million to train sexual-assault nurse examiners and reduce the backlog of unanalyzed no-suspect cases.

11. "DNA testing may help solve Hoffa mystery." USA Today, September 10, 2001.
The FBI has reported that recent DNA tests match a sample of the former Teamsters leader Jimmy Hoffa's hair to hair found in a car driven by one of his friends on the day Hoffa disappeared.
12. "Preview of 2000-01 Wisconsin Supreme Court term." The Associated Press State & Local Wire, September 9, 2001.
Among the cases to be taken up by the Wisconsin Supreme Court this year is an appeal from a convicted rapist who argues prosecutors should be required to submit probability statistics to support testimony on DNA evidence. The defense appealed decisions by the Milwaukee County Circuit Court and 1st District Court of Appeals upholding his convictions for attacks on two women.
13. "U.S. Has Doubts Over Death Row." The Morning Call (Allentown), September 9, 2001.
Reports that the federal "Innocence Protection Act" is gaining momentum and support in Congress. There is speculation that US Senator Arlen Specter could become the first Republican on the Judiciary Committee to sign-on as a cosponsor of the bill. Among other provisions, the bill would make it easier for defendants and death row inmates to use DNA testing that might prove their innocence. The bill would also make federal grants available for states to improve their DNA testing programs
14. "Time running out for federal government to close loopholes in DNA data bank." Canada NewsWire, September 8, 2001.
Ontario's Attorney General and Solicitor General outlined "loopholes" in the current national DNA database law in an open letter to the federal Attorney General, and urged the federal government to expand the list of crimes for which a DNA sample may be required. The additional crimes would include: one count of murder and another count of manslaughter; two counts of manslaughter; first-degree murder and a criminal record of sexual assault; gross indecency or indecent assault involving children. Currently, only multiple murderers, serial rapists and dangerous offenders must submit to the test.
15. "Sheriff's Department enlarging crime lab." Ventura County Star, September 8, 2001.
The Ventura County, California Sheriff's Department is moving forward with plans to double the size of its crime lab, but say it's only a stopgap measure until a new facility can be built. Previous estimates for a new crime lab have run as high as \$19 million, and the county Board of Supervisors is considering spending \$159,600 to study the cost and requirements of a new lab. DNA analysis is reportedly done in a space the equivalent to a large closet.
16. "Orie To Draft Bill To Standardize Evidence Protocols For Rapes." Pittsburgh Post-Gazette, September 7, 2001.
A Pennsylvania State Senator wants to create a standardized kit for gathering evidence in rape investigations to make sure data is collected the same way across the state. She plans to introduce a bill called "The Sexual Assault Testing and Evidence Collecting Act." Partly as a cost-saving measure, under the bill the state Department of Health would bid and buy the kits in bulk, to be distributed to hospitals across the state. The bill may also have a provision to authorize state money to train and certify lab technicians and to fund crime labs to make sure the evidence collected in the rape kits is tested quickly.
17. "DNA Leads To Murder Charge In Death Of Granite City Woman." St. Louis Post-Dispatch, September 5, 2001.
A "cold hit" on the Illinois database has linked a man to a murder in July of this year. The man's DNA was on the offender database due to a previous rape conviction. Police submitted the DNA evidence shortly after the crime was committed, but a backlog at the crime lab resulted in slow turn-around time.
18. "New DNA database tracks felons." Chattanooga Times/Chattanooga Free Press, September 4, 2001.
The Tennessee Bureau of Investigation is preparing to bring its DNA database online. TBI has been receiving an average of 12,000 offender blood samples each year since the law took effect. Tennessee's statute allows for DNA samples to be collected from anyone convicted of a felony.
19. "Increased use of DNA evidence leads to backlog for crime technicians." The Associated Press State & Local Wire, September 2, 2001.

The Indiana crime lab warns that backlogs for DNA testing could get much worse due to a pending financial strain. The lab is asking police to voluntarily limit their requests for DNA testing to what they deem to be the most crucial samples of evidence. Prosecutors and police in Indiana are increasingly under pressure to present judges and juries with DNA evidence. The state police superintendent believes that the state crime labs will have to apply for federal grants and establish partnerships with universities and private labs if they're to keep pace with the demand for their services.

20. "DNA evidence links suspected serial killer to woman slain in 1984." The Associated Press, September 1, 2001.
In Florida, DNA evidence has linked a suspected serial killer to the death of an eighth woman slain in 1984.
21. "Inquiry time extended for rape cases." The Fort Worth Star-Telegram, September 1, 2001.
Defense lawyers in Texas worry that a new state law that eliminates the statute of limitations for rape if DNA evidence is available could discourage prosecutors from pursuing cases quickly. Under the old law, prosecutors had to file criminal charges against a rape suspect within five years after a crime was committed. The new law is not retroactive.
22. "Panama-DNA Panama To Set Up Forensic DNA Lab." EFE News Service, August 31, 2001.
Panama's Attorney General's Office and the United States' Fairfax Identity Laboratories signed a contract to set up a forensic DNA data bank in Panama City, the first of its kind in Central America. The contract is for \$ 1.32 million. Among other things, the lab is expected to aid the Attorney General's Office and a probe by Panama's Truth Commission into the disappearance of more than 100 people during the 1968-1989 period.
23. "Justice System Must Wrestle with DNA Issues, Legal Experts Say." AScribe Newswire, August 30, 2001.
In a recent article in the Washington Law Review, forensic DNA scholars said the courts and public policy have not adequately addressed these and other legal issues accompanying the introduction of DNA evidence about 15 years ago. The article discusses issues such as search and seizure, "abandoned" DNA, racial profiling, and the statute of limitations.

Genetic Privacy

24. "Many are hesitant to get genetic tests." The Deseret News Service (Salt Lake City, UT), September 3, 2001.
Many people are hesitant to have genetic tests because they are afraid that the resulting information could be used against them in insurance or employment. States that pass laws prohibiting discrimination will not cover many of their residents since businesses that provide self-insurance in multiple states are subject to federal, not state, law.
25. "Genetics Could Breed New Forms Of Discrimination." Inter Press Service, September 3, 2001.
Possible discrimination through genetic testing experimentation was discussed at the recent meeting of the World Conference Against Racism. "Does modern genetics not threaten to lead one day to that brave new world, with a new species of supermen who have been genetically engineered dominating the masses of sub-humans who will either be excluded from the new genetic paradise or themselves be genetically manipulated for the purposes of social control or more complete exploitation?"
26. "Job gene tests raise alarm." Chicago Tribune, September 3, 2001.
Discusses the possibility (and in some cases, the reality) that employers could use genetic information to discriminate against employees and in hiring decisions. The laws on genetic discrimination vary from state to state and there is no clear federal law in place.
27. "Parents angry at DNA tests in schools." Sunday Tasmanian, September 2, 2001.
In Australia, the University of Tasmania researchers may have breached the International Convention for the Rights of the Child by not asking children for permission to take DNA samples that were to be used for genetic research. Researchers are attempting to identify children who carry the gene for "Fragile X syndrome" which can be linked to other mental and developmental problems – but not as a rule. Parents worry that their children may be discriminated against if identified as a carrier.