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The January 11, 2002 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

In Illinois, a bill has been introduced to expand the offender DNA database to include all convicted felons. The cost of enacting such legislation in Kentucky may be a stumbling block again this year. "Cold hits" were made in Florida and California, was key in prosecuting a drug case in Louisiana, and was collected from an envelope to identify a shooter in Florida. DNA has exonerated suspects in Illinois and New Mexico.

A New Jersey bill has been enacted that will eliminate the statute of limitations for cases involving DNA. A defense lawyer is challenging forensic evidence based on the fact that New Hampshire's labs are not yet accredited. Federal funds will support a joint effort by UNLV and the Las Vegas police to establish a forensic DNA training program.

Nevada legislators will be studying post conviction DNA issues during the 2002 interim. Post conviction requests for DNA testing are pending in Florida and Georgia.

A burglar was identified in England from DNA in saliva left on a cup, and DNA played a key role in identifying a serial rapist in Germany. In Canada, an appeals court has ruled in favor of allowing DNA gathered from discarded chewing gum.

## STATE LEGISLATION

### Forensic DNA

1. California SB 1242 -- Authorized law enforcement, custodial, or corrections personnel may employ reasonable force to collect required specimens, samples, or print impressions from individuals who have refused such requests.
2. Illinois HB 3717 -- Expands offender DNA database to include all convicted felons. Includes juveniles and persons currently incarcerated.

### Genetic Privacy / Genetic Research

3. Indiana SB 138 -- Prohibits human cloning.
4. South Carolina HB 4408 -- Prohibits human cloning.
5. Wisconsin AB 699 -- Prohibits human cloning.

### Paternity

6. Florida SB 1000 -- Provides for a new trial for child support if genetic testing has indicated a different paternity.
7. Indiana SB 223 -- Requires a court to order DNA testing if a party challenges the accuracy of a non-DNA test in a paternity action.

## NEWS ARTICLES

### Forensic DNA

1. "Federal grant to assist science efforts at UNLV." Las Vegas Review Journal, January 11, 2002.  
The University of Nevada, Las Vegas has received a \$2.6 million federal grant from the U.S. Health and Human Services Administration for the university's Cancer Institute and new Biotechnology Center. The Biotechnology Center will serve as a facility for forensic DNA and other biotechnology training programs. "We have formed a partnership with the Las Vegas Metropolitan Police Department's Crime and Forensic DNA labs to create a laboratory that will be specially equipped to train people nationwide in forensic science and human DNA profiling," a UNLV biology professor said.
2. "Landmark DNA Conviction Upheld." London Free Press, January 9, 2002.  
A first-degree murder conviction that helped set the standard for use of DNA evidence in criminal cases has been upheld by the Ontario, Canada Court of Appeal. The appeals court rejected the defendant's request to reverse the conviction based on a lower court's decision to admit DNA evidence from chewing gum, even though the defendant had refused to give bodily samples for analysis. Chewing gum had been offered to the defendant as he was transported to court, and was retrieved from a dry toilet bowl in a courthouse holding cell and from a wastebasket at the detention center. The appeals court said the ploy to obtain samples was acceptable and "did not amount to an improper subversion of the appellant's decision not to provide bodily samples to police."
3. "DNA Crucial In Bid For New Trial." The Miami Herald, January 8, 2002.  
A Miami, Florida area judge will soon decide whether a man who has spent 20 years in prison for rape should be retried because new DNA evidence shows hair found in the victim's bed did not belong to him.
4. "Man tied to shooting by DNA on letter." St. Petersburg Time, January 8, 2002.  
A Florida man who sent an anonymous letter to a woman he had shot was identified after DNA and fingerprints were lifted from the envelope. Before the letter, police had not considered the man as a suspect.
5. "A Summary of Illinois News." The Associated Press State & Local Wire, January 7, 2002.  
In Cook County, Illinois, prosecutors have dropped murder charges against a Chicago man despite his videotaped confession that he killed his mother in July 2000. DNA tests on evidence from the crime scene linked another man to the fatal stabbing of the man's mother.
6. "DNA tests link single suspect to sexual assaults in San Diego." The Associated Press State & Local Wire, January 7, 2002.  
In San Diego, California, police have determined that at least four sexual assaults that occurred last year near a park are linked by genetic evidence to one suspect. Results from DNA tests show the same man is responsible for the rapes and attempted rapes that took place between July and September. Women were raped in three cases and the remaining cases are being investigated as attempted sexual assaults and burglaries. Police have said they suspect all six cases are related.
7. "Law Removes Limitations On DNA, Print Evidence." The Record (Bergen County, NJ), January 7, 2002.  
In New Jersey, legislators have enacted a bill to remove the statute of limitations for crimes in which there is DNA evidence. Under previous state law, time began running out the day after a crime was committed.
8. "Beyond Green River case: 52 similar, unsolved deaths." The Seattle Times, January 7, 2002.  
Police in Washington are investigating whether 52 additional unsolved deaths can be attributed to the accused Green River Killer, who is already suspected of murdering 49 women. Police are now determining whether advances in DNA technology -- the critical evidence in tying the suspect to the Green River victims -- can be used in these other cases.
9. "DNA Data Bank Doesn't Violate Privacy." The Edmonton Sun, January 6, 2002.

Editorial argues strongly in favor of having an expanded Canadian DNA database that would include more criminals. "Echoing a previous court ruling, the court noted that collecting DNA amounts to 'minimal intrusion' with no unacceptable affront to dignity. 'In the case of an ordinary adult offender, there are important state interests served by the DNA data bank and few reasons based on privacy and security of the person for refusing to make the order.'" Criminals may complain that pricking their fingers to get a drop of blood is a violation of privacy. Let's see how much sympathy they get from law-abiding Canadians."

10. "Fighting Crime Cost To Uphold Tougher Laws Might Mean Fewer Passed." The Lexington Herald-Leader, January 6, 2002.  
A Kentucky newspaper classified legislative proposals to expand the offender DNA database as one of the "ambitious proposals might not leave the gate" due to funding issues. Kentucky takes DNA from sex offenders only, and the article notes that "Prosecutors and defense lawyers alike love DNA. The database helps police identify criminals based on body fluids left at crime scenes. DNA also helps clear those wrongly accused."
11. "Report: HPD assistant chief accused of abusing power." The Associated Press State & Local Wire, January 5, 2002.  
The Honolulu Police Department is under fire for spending \$2,000 on a mainland DNA on a cigarette butt found at the burglary of the Assistant Police Chief's home. It was the first such test conducted for a property crime on Oahu, and some detectives have said it was an abuse of power. Detectives said they had asked for similar tests in other burglary cases, but the requests were rejected because the tests are too expensive.
12. "Lawyers want key DNA evidence to be thrown out." The Associated Press State & Local Wire, January 5, 2002.  
A Massachusetts man who was charged with murder seven years after the victim's death wants a judge to throw out key DNA evidence in the case. Lawyers for the suspect contend that police failed to establish in their warrant why a blood sample would shed light on the murder. Therefore, the state could not compel the suspect to submit to the test and any evidence stemming from the DNA samples should be thrown out.
13. "Convicted rapists present DNA evidence." The Atlanta Journal and Constitution, January 5, 2002.  
Lawyers for a Georgia man who spent 15 years in prison on a rape conviction and a co-defendant who's still in prison say the men are innocent and have DNA test results to prove it. Both men have filed motions for a new trial and a judge has set a hearing for Jan. 15.
14. "Conman trapped by slip twixt cup and lip." The Daily Telegraph (London), January 5, 2002.  
In England, a conman who took tea with a pensioner while his accomplices rifled through the 75-year-old man's home was arrested after police traced him through DNA left on the cup. Seven months after the robbery, the man was arrested on another matter and his DNA was matched to crime. The man initially denied being involved but later admitted burglary. His accomplices have not been caught.
15. "DNA test upholds man's conviction, prosecutor says." The Saturday Oklahoman, January 5, 2002.  
The first of three DNA tests from cases that included testimony from former Oklahoma City police chemist Joyce Gilchrist found victims' blood on the convicted killer's pants. Gilchrist was fired last year after officials said she performed shoddy work in several cases, including one that led to the release of a man wrongly jailed for 15 years for rape. The attorney general's office and indigent defense attorneys plan to test evidence from hundreds of other cases in which Gilchrist testified, including cases in which the convicted perpetrator is not on death row.
16. "DNA tests lead to more charges." St. Petersburg Times, January 5, 2002.  
In Florida, a 49-year-old man who was recently charged with armed sexual assault now faces charges of raping four other women. DNA has linked the man to the other assaults. Police also are investigating the man in connection with 18 other sexual assaults. The man has a history of robberies, sexual batteries and DUIs.
17. "Santa Fe settles arrest lawsuit after teen cleared." The Associated Press State & Local Wire, January 4, 2002.  
The city of Santa Fe, New Mexico has agreed to pay \$13,000 to settle a civil rights lawsuit filed last summer by the mother of a teen-ager wrongly arrested on rape charges in 1999. The charge was dismissed after DNA tests showed the teen did not commit the crime. The lawsuit said the boy was 15 when he was arrested. He spent a

night in jail and a month and a half under house arrest and lost his summer job in what prosecutors called a case of mistaken identity.

18. "Nevada's lawmakers will stay busy in off year." The Associated Press State & Local Wire, January 4, 2002. A Nevada legislative committee will be studying the death penalty and DNA during the interim year of 2002. One session has already been scheduled for the discussion of post conviction DNA testing.
19. "German police make arrest in schoolgirl rape inquiry." Deutsch Presse-Agentur, January 4, 2002. German police announced an arrest in a rape case that shocked the nation three months earlier, saying a teenage dropout had admitted attacking a 7-year-old girl in a school toilet. A woman raped on New Year's Eve in a bar toilet identified him on a photo as her attacker, and he later admitted to three rapes in which there was clear DNA evidence that he was the attacker.
20. "DNA leads to drug conviction." The Advocate (Baton Rouge, LA), January 4, 2002. Prosecutors will seek life in prison for a man whose DNA was used to gain a conviction in a drug case. The man was convicted of possession of cocaine. Investigators used DNA from his saliva found on a bag of cocaine to gain the conviction.
21. "Accused Killer Challenges Laboratory." AP Online, January 2, 2002. In a New Hampshire case, lawyers for a teen-ager accused of killing two Dartmouth College professors argued in court filings that forensic evidence in the case is unreliable because the state police laboratory is not accredited. The lab director said that they are working towards accreditation, but the process takes time and money. The lab's DNA section passed an audit last fall, and test results have proven reliable countless times, he said.
22. "4 Years Later, DNA Links Burglar To Deerfield Slaying." The Miami Herald, December 29, 2001. In Florida, detectives have charged an inmate with first-degree murder. The man is currently serving a six-year sentence for burglary. He is a habitual offender, who was tentatively scheduled to be released in December 2002. Detectives had interviewed the man after the crime (four years ago) but had no evidence linking him to the crime. The killer was identified after his DNA was submitted to the offender database.
23. "Med Examiner Needed." The Augusta Chronicle, December 26, 2001. The Augusta, Georgia \$4.1 million crime lab should be open for business next summer. However, the new facility has been designed to accommodate a medical examiner and a support staff of three but, due to the state's budget crunch, there's no money available to hire these people.
24. "Slavery Suspect Had 60 Bogus Birth Certificates." The News of the World, December 23, 2001. In a human trafficking case in Ireland, police are using DNA testing to verify paternity of children before returning them to their "parents."

#### Genetic Privacy / Genetic Research

25. "Florida 1st To Screen All Babies For Diabetes." The Orlando Sentinel, January 4, 2002. Doctors in Florida will be offering genetic screening to determine whether newborns are diabetic. By following high-risk children closely, researchers hope to discover what causes the genetic possibility for diabetes to become a lifelong reality for some people. They say the knowledge could lead to a cure. The program will be overseen by the University of Florida College of Medicine, funded in part by a \$10 million endowment from the American Diabetes Association.

#### Paternity

26. "DNA tests must precede action to negate paternity." Chicago Daily Law Bulletin, January 2, 2002.

The Illinois State Supreme Court recently held that pursuant to the Illinois Parentage Act, DNA test results disproving paternity are a condition precedent for a man to file an action to negate a prior adjudication of fatherhood.