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The January 18, 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

All felons DNA database bills were introduced in Kentucky and Mississippi, and a Colorado bill would make the current all felons statute retroactive to include persons in custody or on probation or parole. More limited databases expansion bills were introduced in Kentucky and West Virginia. The Ohio House has begun hearings on its offender DNA database expansion bill, and the Arizona Governor has called for an expanded DNA database. There are two new bills in Virginia to require DNA from persons arrested for violent felonies.

DNA testing of old evidence in Baltimore has solved several crimes and exonerated one suspect, and Utah has had its first “cold hit” on the DNA database. Bills to extend the statute of limitations for DNA cases were introduced in Florida and New Jersey, and may be introduced in Missouri. DNA from cigarette butts (in Connecticut), a discarded hospital bandage (in Florida), and envelopes (federal case in Virginia) have been used in the prosecution of criminal cases.

Bills addressing post conviction access to DNA testing were introduced in Alabama, Colorado, Illinois, Kentucky, Nebraska, New Jersey, and West Virginia.

In international news, a victim’s family in the UK is calling for a European-wide DNA database – Interpol is considering piloting such a system DNA has identified a suspect in a 1991 US Embassy shooting in Germany. Police in Canada used DNA from a discarded tissue to link a man to a murder and assault. Police in the UK are warning that they now have authority to collect DNA for arrests related to prostitute solicitation. Panama is renewing efforts to identify human remains through DNA.

## STATE LEGISLATION

### Forensic DNA

1. Alabama SB 209 – Allows inmates access to post conviction DNA testing.
2. Colorado HB 1109 -- Allows inmates access to post conviction DNA testing.
3. Colorado SB 19 – Expands current all-felons DNA database statute to include others in “custody” or who are on parole or probation. Allows the DNA testing to be delayed until sufficient appropriations.
4. Florida HB 823 -- Provides that a prosecution for sexual battery may be commenced at any time after the crime is committed when a DNA record exists in connection with the felony and is properly maintained by the appropriate agency.
5. Illinois H. Res. 606 -- Urges the United States Department of Justice to offer federal grants for DNA testing for incarcerated individuals.
6. Indiana SB 447 -- Establishes the state police laboratory fund to pay for certain expenditures associated with the state police laboratory.

7. Kentucky HB 4 – Expands offender DNA database to include all convicted felons. Includes those in jails. Requires collection now, and analysis upon receipt of appropriations.
8. Kentucky HB 53 – Expands offender DNA database to include all violent felons. Includes those in jails.
9. Kentucky HB 132 – Expands offender DNA database to include all violent felons. Includes those in jails.
10. Kentucky HB 308 – Creates a sexual assault response team advisory committee to recommend changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault. Committee is to include the crime lab director.
11. Kentucky SB 67 – Prohibits the disposal of materials with DNA evidence prior to and after criminal trials unless certain conditions are met.
12. Kentucky SB 98 – Expands offender DNA database to include all violent offenders and burglary.
13. Mississippi HB 663 – Expands offender DNA database to include all convicted felons. Includes persons still incarcerated.
14. Mississippi HB 2039 – Expands offender DNA database to include all convicted felons. Includes persons still incarcerated.
15. Nebraska LB 949 – Clarifies the state’s post conviction DNA testing statute.
16. New Jersey AB 425 -- Permits DNA testing under certain circumstances of old evidence to establish innocence of persons convicted.
17. New Jersey AB 1136 & SB 205 -- Supplemental appropriation of \$ 300,000 to the Department of Law and Public Safety for post conviction DNA testing.
18. New Jersey SB 192 -- Provides for DNA testing on certain evidence in murder cases and requires DNA testing if death sentence imposed if identity was at issue.
19. New Jersey SB 270 -- Eliminates statute of limitations for prosecuting criminal sexual contact and endangering the welfare of child if DNA identity available.
20. Virginia HB 892 & SB 535 – Requires DNA testing of persons arrested for violent felonies. DNA profile would be maintained in the state’s offender DNA database.
21. Virginia HB 419 -- Establishes a \$25 fee for convicted felons required to submit to DNA testing for the state database.
22. West Virginia HB 2456 – Expands offender DNA database to include: arson (1st - 3rd degree); burning with intent to defraud insurance; burglary; grand and petit larceny; transporting, receiving or disposing stolen goods from another state; removal, injury to or destruction of property, monuments designating land boundaries, and certain no trespass signs; check forgery; disinterment of a dead body / damage to a graveyard; and stalking.
23. West Virginia HB 2883 – Allows access to post conviction DNA testing in death penalty cases.

Genetic Privacy / Genetic Research

24. Alabama HB 218 – Prohibits human cloning.
25. Colorado HB 1073 -- Prohibits human cloning.

26. Colorado SB 78 -- Eliminates an existing reference to genetic information as personal property. Prohibits genetic discrimination in employment practices.
27. Florida HB 805 & SB 1164 -- Prohibits human cloning.
28. Florida HB 817 -- Authorizes formation of a study group to research expanded newborn infant screening programs currently operating in other states.
29. Indiana SB 372 -- Defines "destructive research" as research that kills or injures the subject of the research and involves the use of human embryos.
30. Kentucky HB 138 -- Prohibits human cloning.
31. Maryland HB 67 -- Prohibits discrimination in coverage, benefits, or determination of disability in workers' compensation based on an employee's genetic information or genetic test.
32. 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 certain scientific issues and certain pending legislation (such as human cloning and human medical research).
33. Mississippi HB 717 – Expands the comprehensive newborn screening program to include such other conditions as specified by the state board of health, upon the advice and recommendations of a genetics advisory committee.
34. Missouri HB 1028 – Prohibits human cloning.
35. Missouri SB 803 – Strengthens current law regarding genetic testing for insurance purposes.
36. Nebraska LB 1067 – Prohibits human cloning.
37. New Jersey AB 146 -- Requires licensing of genetic counselors.
38. New Jersey SB 542 – Prohibits human cloning.
39. Rhode Island HB 6736 -- Prohibits employers and employment agencies from denying employment, and would prohibit licensing agencies from denying occupational licenses based on a refusal to submit to genetic testing by the employee or applicant.
40. Virginia HB 581 – Prohibits genetic discrimination in employment practices.
41. Virginia SB 102 -- Prohibits genetic discrimination in employment practices.
42. Virginia HJRes 59 -- Establishes a joint subcommittee to study employment discrimination based on genetic information.
43. West Virginia HB 2748 & SB 34– Creates the “Genetic Information Privacy Act.” Provides for the confidentiality of genetic test results and to limit the use of genetic information by health insurers.
44. Wisconsin SB 379 – Prohibits human cloning.

#### Paternity

45. New Jersey AB 922 – Allows adjudication of paternity to be voided if there is clear and convincing evidence of: fraud, a mistake of fact or inaccurate analysis of genetic testing to determine parentage.

46. New Jersey AB 1130 -- Provides that DNA test results may be used in establishing parentage.
47. New Jersey SB 53 -- Permits person to obtain relief from judgment or order of paternity or child support if genetic evidence establishes person is not the father of the child.

## **NEWS ARTICLES**

### Forensic DNA

1. "British detectives 'breached protocol.'" The Nation (Thailand), January 16, 2002.  
Thai police are criticizing British detectives for breaching protocol by launching a probe into the murder of Welsh traveler without informing their Thai counterparts first. DNA testing on crime scene evidence was recently completed in Britain, and the detectives want DNA samples from all tourist police from particular area to identify the perpetrator. Thai police say such testing would be impractical because it would need considerable funding.
2. "Indiana State Police help parents collect DNA of children." The Associated Press State & Local Wire, January 15, 2002.  
Indiana State Police troopers are handing out kits to help parents collect and store their children's DNA. The goal is to use the genetic samples to help identify an abducted child if he or she is eventually found dead. The kits replace the rarely used fingerprint cards, and are a much more effective method of identifying the dead.
3. "DNA evidence links homeless man to killings." The Associated Press State & Local Wire, January 15, 2002.  
In Connecticut, DNA evidence from cigarette butts found at a crime scene has linked a homeless man to a murder. The man's DNA was on file with the state due to a previous rape.
4. "Judge OKs use of DNA evidence." The Baltimore Sun, January 15, 2002.  
A Maryland County Circuit Court judge has ruled that DNA evidence can be introduced during a murder trial. In court papers filed last year, the defendant's lawyer requested that the DNA evidence be excluded. He questioned the integrity of DNA tests in general and the possibility for error in the evaluation of samples.
5. "DNA tests solve cold cases." The Baltimore Sun, January 15, 2002.  
A 1989 homicide has been solved and a man exonerated of rape due to an agreement reached last year by Baltimore police and the ABC News program 20/20. The agreement helped finance DNA tests in 50 dormant cases. Of the 50 cold cases examined for 20/20, technicians were able to obtain 39 DNA profiles. Five matched profiles in DNA databases kept by Maryland and other states. These results are expected to bolster a request to the legislature to require more felons to submit DNA to the convicted offender database. The Mayor of Baltimore is asking state legislators to spend \$4 million to buy equipment and hire technicians statewide to test more DNA samples. The city has a backlog of 5,000 unsolved cases that might offer DNA evidence.
6. "Brothers' DNA Could Sow Doubts." The Boston Globe, January 15, 2002.  
In a Connecticut murder trial, a former prosecutor expects the defense to put on a defense expert to say two brothers (one of whom is charged with murder) have such similar DNA and, given the oldness of the sample, you can't really know for sure whose it is.
7. "Used tissue leads to man's arrest." Toronto Star, January 15, 2002.  
In Toronto, DNA left behind at the murder scene and at an unrelated sex assault matched the fluids on a tissue, which a suspect threw away while investigators had him under 24-hour watch.
8. "Highlights of Hull speech." The Associated Press State & Local Wire, January 14, 2002.  
In her state of the state address, Governor Hull called for expanded use of DNA testing on criminals.
9. No Title. The Associated Press State & Local Wire, January 14, 2002.  
The Ohio House of Representatives has scheduled hearings on legislation to expand the offender DNA database.

10. "Driver On Kerb Crawling Charge." Birmingham Evening Mail, January 14, 2002.  
Police in England are preparing to begin regular collection of DNA from persons picked up on "kerb-crawling" charges. The collection is now allowable under a new law that authorizes DNA sample collection for any arrestable offense.
11. "Caroline suspect trial moves a step closer." Western Morning News (Plymouth), January 14, 2002.  
The parents of an English schoolgirl who was killed by a Spaniard in France issued a joint statement last year calling for a fully integrated European DNA database. The parents have recently learned that Interpol's European working party on DNA profiling is promoting a standard technique to aid criminal investigations across Europe. It has also produced a handbook on DNA data exchange which has been circulated to all law enforcement agencies. In addition, Interpol is also looking at piloting an international DNA database and assessing the feasibility of the system.
12. "DNA hair test identifies assailant of US embassy in 1991." Agence France Presse, January 12, 2002.  
Genetic analysis on a hair fragment has identified a German urban guerrilla in the shooting of the US embassy in Bonn in 1991.
13. "DNA may solve 1999 rape case." The Desseret News (Salt Lake City, UT), January 12, 2002.  
Salt Lake City police believe they have solved a 2-year-old case, thanks to the State Crime lab's DNA database. It will be the first time a case has been solved in Utah by matching unknown DNA with DNA already entered into the system. The man is a previously convicted sex offender and is currently serving time for aggravated kidnapping
14. "Roanoke Courier Guilty Of Larceny." Roanoke Times and World News, January 12, 2002.  
A jury has convicted a man with stealing a package with more than \$1.5 million in checks and \$260 in ATM deposits from a bank's processing center Virginia. FBI testing showed that dried blood found on five of the 52 envelopes that were opened tied the man to the case.
15. "Parks lawyers ask judge to reject DNA." Sarasota Herald-Tribune, January 11, 2002.  
In Florida, lawyers for a man suspected of killing a woman and her two daughters are asking a judge to toss out the DNA evidence connecting him to the crimes. Police collected a bloody bandage from the man's hospital room which they compared to skin samples found under one of the victim's fingernails. The detectives did not have a search warrant.
16. "Prosecutors object to defense claim that forensic evidence is unreliable because lab is unaccredited." AP Worldstream, January 10, 2002.  
Prosecutors are objecting to claims by defense lawyers in a double murder case that the forensic evidence is unreliable because the state police laboratory is not accredited. The motion does not cite any specific case in which the lab has produced flawed tests. Forensic evidence, particularly DNA evidence, is a central part of the prosecution's case.
17. "Ex-Soldier Fights To Clear Name." The Daily Telegraph, January 10, 2002.  
A former British soldier risks being returned to a German jail as he launched a court battle to clear his name of the rape and murder of a woman he met at a nightclub. He was freed from prison in February 1994, having served eight and a half years, after DNA evidence showed that he could not be the man who raped the woman.
18. "Panama-Missing Panamanian Group To Take New DNA Tests Of Relatives Of Missing." EFE News Service, January 10, 2002.  
Panama's Truth Commission called on relatives of those reported missing during the 1968-1989 military regime to volunteer for new DNA tests to help identify the human remains found in several sites across the country.
19. "Full agenda awaits Missouri lawmakers." Kansas City Star, January 9, 2002.  
Missouri lawmakers have said that chances are good for proposals to eliminate the statute of limitations on rape and sodomy cases. They say that current law, which requires that a rape suspect be charged within three years of an attack, is outdated now that DNA evidence can prove identity years later.

### Genetic Privacy / Genetic Research

20. "Cloning Foes To Launch Campaign." The Boston Globe, January 14, 2002.  
Momentum is building behind a campaign to get the US Senate to act quickly to ban human cloning, a subject that is energizing social conservatives and emerging as an important domestic political issue for the White House this election year.
  
21. "State battle over stem cell cloning stakes out the last frontier." The San Francisco Chronicle, January 14, 2002.  
The state Senate Committee on Genetics and Public Policy is expected unveil an advisory committee report urging California to allow cloning in connection with experiments to explore the medical uses of human embryonic stem cells.

### Paternity

22. "DNA test cancels child support." The Capital (Annapolis, MD), January 14, 2002.  
In Maryland, a sharply divided Court of Appeals has ruled that a man doesn't have to pay \$ 11,000 in back child support because DNA testing showed he was not the child's father.
  
23. "Agrees To DNA Test To Determine Father Of Baby." New Straits Times (Malaysia), January 10, 2002.  
In Malaysia, a businessman has agreed to undergo a DNA test to determine whether he is the father of a child born to a woman who is claiming that he promised to marry her.