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The January 25, 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

Bills in Iowa, Maryland and Vermont would expand the convicted offender DNA databases to include all convicted felons. More limited expansion bills were introduced in Alabama and Arizona. Other, previously introduced DNA expansion bills made the news in Illinois, Kentucky and Virginia.

Bills to extend the statute of limitations for DNA cases were introduced in Georgia and Oklahoma, and considered by legislative committees in Missouri. DNA database "cold hits" were made in Georgia and Minnesota. The Pennsylvania DNA database was hailed for solving crimes and saving money. DNA testing results have withstood important challenges in Wisconsin and Illinois.

Post conviction DNA testing bills were introduced in Kentucky, Mississippi, and South Dakota. Post conviction DNA testing celebrated its 100th exoneration of a wrongfully convicted person.

In Australia, DNA databases are continuing to solve record numbers of cold cases, and at least one Australian state is considering another expansion of its database. In South Africa, DNA testing has exonerated six men accused of raping an infant.

STATE LEGISLATION

Forensic DNA

1. Alabama HB 245 – Requires DNA samples of all persons who are convicted of a crime involving a sexual offense or a felony where the victim suffers physical.
2. Arizona SB 1046 – Expands offender DNA database to include voyeurism.
3. Iowa HB 2077 & SB 2024 – Expands offender DNA database to include all convicted felons.
4. Kentucky HB 424 – Allows access to post conviction DNA testing.
5. Kentucky HJR 61 – Directs the Criminal Justice Council to conduct a comprehensive statewide study of capital cases. Study is to include issue of access to post conviction DNA testing.
6. Maryland HB 136 – Expands offender DNA database to include all convicted felons.
7. Mississippi HB 836 -- Allows access to post conviction DNA testing.
8. New Mexico SB 1 & HB 2 – Crime laboratory performance measures sets unprocessed DNA cases at 150.
9. Oklahoma HB 2790 – Eliminates the statute of limitations for sex crimes if DNA evidence is available. Retroactive, and materials to be tested or retested from reopened cases must be done within three years.
10. South Dakota SB 91 -- Allows access to post conviction DNA testing.

11. South Dakota SB 93 – Entire bill reads, “If a genetic test is required or authorized by state law, the test, to be a valid test, shall be completed in a laboratory approved by any accreditation body that has been approved by the United States Secretary of Health and Human Services.”
12. Tennessee SB 2180 – Entire bill reads, “The uniform procedures adopted and developed by the Tennessee bureau of investigation pursuant to this section [on DNA] shall be compatible with the procedures the federal bureau of investigation has specified including compatible test procedures, laboratory equipment, supplies and computer software.”
13. Vermont HB 596 – Expands offender DNA database to include all convicted felons, plus misdemeanor offenses related to sexual abuse by a caregiver and possession of child pornography.
14. Virginia HJRes -- Establishes a joint subcommittee to study mistaken identification in criminal cases. Notes that of the first forty cases in the United States in which DNA profiling was used to exonerate persons convicted of a crime, 90 percent involved mistaken identification by one or more eyewitnesses.

Genetic Privacy / Genetic Research

15. Arizona HB 2108 -- Prohibits human cloning.
16. Missouri HB 1449 -- Prohibits human cloning.
17. Missouri HB 1458 -- Prohibits human cloning.
18. Oklahoma HB 2011 -- Prohibits human cloning.
19. Oklahoma HB 2142 -- Prohibits human cloning.
20. Tennessee SB 2295 -- Prohibits human cloning.
21. Texas Executive Order 2 – Creates the Governor's Council on Science and Biotechnology Development.
22. West Virginia HB 4092 & SB 218- Creates a genetic information privacy act.
23. Wisconsin AB 736 -- Prohibits human cloning. Prohibits human cloning.

NEWS ARTICLES

Forensic DNA

1. “Three men indicted in 12-year-old Coweta County killings.” The Associated Press, January 24, 2002.
In Georgia, three men have been charged with a 12-year old murder case after the state’s DNA database all convicted felons led police to one of the suspects. Two of the men are already serving time in Georgia prisons for unrelated crimes. Police indicated the crimes for which they are currently imprisoned.
2. “Vic; DNA tests link prisoners to 238 unsolved crimes.” AAP Newsfeed, January 23,2002.
In Victoria, Australia, comparisons of prisoners' DNA with information in the Victoria Police database have implicated 99 inmates in 238 unsolved crimes. The DNA matches relate mainly to burglaries but the database material also pointed to involvement in three unsolved murders, five rapes or sex crimes, four assaults, an abduction and 11 car thefts. The state requires DNA from all prisoners.
3. “DNA tests for suspects, prisoners.” The Advertiser, January 22, 2002.

The South Australia Government has announced plans to require compulsory DNA testing for all prisoners. Police will also be given wider powers to take DNA samples from suspects - using reasonable force if necessary.

4. "Police collect additional DNA samples in alleged rape." The Associated Press State & Local Wire, January 22, 2002.
Police investigating an alleged rape during a party for University of Colorado football recruits are almost finished interviewing witnesses and have collected additional DNA samples from potential suspects.
5. "Lawmakers hear proposals to lift statute of limitations on rape." The Associated Press State & Local Wire, January 22, 2002.
The Missouri House and Senate Judiciary Committees have been considering bills to remove the statute of limitations for rape. Current law limits prosecutions to three years after the crime. Prosecutors testified that new technology allows investigators to use DNA samples collected after a rape to solve previously unsolvable crimes, but that sometimes it takes years to match the rapist's DNA with his identity.
6. "Cops bust 150 thieves." Northern Territory News, January 21, 2002.
In Australia's Northern Territory, police have recovered and accounted for more than \$1.5 million in property including 50 stolen vehicles over the past six months. They have arrested more than 150 people who have been charged with more than 700 related offences. 56 of the identifications were from DNA hits.
7. "Legislators Working To Lure Cards To Illinois." St. Louis Post-Dispatch, January 21, 2002.
Reports that "other Metro East [Illinois] legislators" also are drafting proposed legislation that would: Require DNA samples to be taken and entered into a database for all felony offenders in the state, similar to the database of offender's fingerprints. "Under the new procedures and new technology it is a non- invasive procedure," said Rep. Mike Bost, R-Murphysboro.
8. "Cleared of murder, four men sue police and prosecutors." The Associated Press State & Local Wire, January 20, 2002.
In Illinois, four men cleared by DNA evidence of the 1986 murder-rape of a medical student are suing the police, prosecutors and crime lab workers who convicted them.
9. "100th person freed through DNA celebrates." The Associated Press State & Local Wire, January 22, 2002.
In California, three weeks after DNA testing cleared his name, a 52-year-old man celebrated his freedom as a coalition of advocates seeking to free those wrongfully convicted gathered for a three-day conference in San Diego. His December 21 release made him the 100th person to be freed nationwide because of genetic testing.
10. "New Life For A Cold Case." The Boston Globe, January 20, 2002.
Boston Police have solved a murder from 1981 through new DNA testing. A blood stain found on the victim's pants was linked by DNA to blood taken from a bandage collected from the prime suspect shortly after the murder. The defense intends to challenge the Boston Police Department's "haphazard and deficient procedures to safeguard important evidence." The lawyer has homed in on the two vials of blood drawn from the suspect during the initial investigation. "One of the vials has become devoid of evidentiary value due to the ineptitude of the Boston Police Crime laboratory," he wrote. "The other vial is totally unaccounted for."
11. "Mistakes With DNA Testing Unlikely: Analyst." SAPA (South African Press Association), January 20, 2002.
In South Africa, DNA testing has exonerated 6 men who were suspected of raping a 9 month old child. A chief chemist at the Pretoria forensics lab said, "The work we do is world class, but we want to increase our capabilities even more." Due to the cost of DNA testing, it is only done when a prosecutor specifically requests it. "We only have the budget to do 8000 cases, which amounts to about 40000 samples being tested." The cost of that is R16-million and that is only for the consumables, it does not include the salaries of the analysts and further training." The tests take 12 weeks if all the necessary samples are available and this can delay court proceedings.
12. "DNA testing delayed in school vandalism case." The Associated Press State & Local Wire, January 19, 2002.

In Wyoming, the Division of Criminal Investigation did not forward a DNA sample to a testing lab for five months partly due to delays from the Sept. 11 attack. The DCI contracts with a Maryland lab to do DNA testing. The lab was apparently swamped with body identification cases for six to eight weeks. Police are hopeful that DNA testing will identify those responsible for vandalism incidents last summer that cost an estimated \$275,000 worth of damage to a school, including to computers, furniture and carpets.

13. "2002 Georgia Legislature: Law would nix felony case time limit." The Atlanta Journal and Constitution, January 19, 2002.
A bill introduced in Georgia seeks to eliminate the statute of limitation on rape, armed robbery, kidnapping, aggravated child molestation, aggravated sodomy and aggravated sexual battery. The legislation would allow police to take as long as they need to prosecute suspects for such crimes. The bill is being pushed by Lt. Gov. Mark Taylor, and is considered "follow-up" to legislation adopted two years ago that expanded the offender DNA database to include all convicted felons. Taylor wants to make sure samples collected years after a crime can still be used to close cases.
14. "State high court dismisses rapist's appeal." Milwaukee Journal Sentinel, January 19, 2002.
In Wisconsin, the state Supreme Court has dismissed the appeal of a convicted rapist from who claimed his groundbreaking 1997 DNA-based conviction was flawed. During his trial, for the first time in a US courtroom, a laboratory expert testified that some of the genetic was so exact that no one else could be guilty of the crime. But the inmate argued that after concluding that their genetic evidence was absolute, police and prosecutors did not provide statistical data to support their position, contrary to a state law. Meanwhile, the man is due back in court shortly to face charges of carjacking and rape – which, again, he is tied to through a DNA match.
15. "A case of DNA and persistence." Star Tribune (Minneapolis, MN), January 19, 2002.
Investigators in Minneapolis, Minnesota have solved three-year old rape case through cold hit on the DNA database. Recently, the rape DNA evidence was matched to DNA collected from another unsolved rape. By connecting the two rapes to the same perpetrator, police were better able to narrow in on a possible suspect. The man was eventually located in a Pennsylvania prison where he was awaiting trial for crimes including theft and carrying a firearm without a license.
16. "Michael Smith discusses the use of DNA evidence to exonerate the wrongly convicted." National Public Radio (All Things Considered), January 18, 2002.
Interview on post conviction DNA testing with Michael Smith (former adviser to the Justice Department on DNA issues, and law professor at the University of Wisconsin). Points out that most of the recent exonerations have been for pre-1993 convictions, which seems to indicate that DNA testing is now preventing wrongful convictions. Suggests that having a nationwide forensic DNA database would eliminate the problem of having a misrepresentative proportion of minorities in the database.
17. "Increasing DNA exonerations contradict predictions." USA Today, January 18, 2002.
Reports that the rising numbers of post conviction DNA exonerations contradict that exonerations would decline as a small pool of questionable convictions was subjected to DNA analysis. Also, the exonerations illustrate the limitations of DNA testing -- it testing relies on evidence samples, such as blood or semen, but what about cases where no such evidence is available? Ninety-one of the 100 exonerations were in sexual assault cases.
18. "Statewide DNA database helping to solve crime, save money." The Associated Press State & Local Wire, January 17, 2002.
In Pennsylvania, police say the offender DNA database has helped solve 10 crimes since its inception last year, with more than 17,000 DNA profiles in the system. Six crime scenes were linked to offenders in the Pennsylvania index, and four were connected to offenders in the national database. Police also say it will reduce the cost of investigations.
19. "Judge: Girl, 12, can abort without saving DNA for father's rape trial." The Associated Press State & Local Wire, January 17, 2002.
A Virginia judge has ruled that a 12-year-old girl who says she became pregnant when her father raped her can have an abortion without preserving fetal tissue for conclusive DNA testing.

20. "State Targets Domestic Violence New Attorney General Outlines His 2002 Agenda." Daily Press, January 17, 2002.
Virginia's Attorney General has proposed measure that would require DNA to be taken from every person arrested in Virginia on a violent felony charge. The Attorney General said he anticipates civil liberties groups will mount court challenges to such a law but predicted they would fail. "I liken DNA evidence to fingerprint evidence," a position taken by the courts, he said.
21. "Bill Would Expand Use Of DNA Evidence In Kentucky Courts." The Lexington Herald Leader, January 17, 2002.
The Kentucky House Judiciary Committee has consolidated a package of DNA legislation into one bill. House Bill 4 would expand the DNA database to include first- and second-degree burglars, murderers and other violent felons, as state funds become available; preserve DNA evidence from trials; and guarantee DNA testing in death-penalty cases, including those on appeal.
22. "DNA Test Can Be Used As Evidence." Belleville News-Democrat, January 16, 2002.
In Illinois, a St. Clair County Circuit Judge has ruled the method used to test DNA evidence found at a murder scene is accepted as reliable by the scientific community. The decision could be used in other Illinois courts that are dealing with whether to allow the particular method of DNA testing. Illinois appellate courts have not yet made a decision regarding the method used to test crime scene DNA.
23. "Police Hunting Serial Rapist." Columbus Ledger-Enquirer, January 16, 2002.
In Georgia, police have been able to link at least six attacks to one individual through comparisons of DNA evidence from unsolved rape cases over the last 11 years.

Genetic Privacy / Genetic Research

24. "Missouri Legislator's Bill Would Monitor Reproductive Technology." Columbia Daily Tribune, January 22, 2002.
A Missouri legislator has introduced a bill aimed at parents who try to conceive through in vitro fertilization. His bill stipulates that anyone who chooses an embryo for implantation in a woman "based on the gender of such embryo" (by using preimplantation genetic diagnosis) would be guilty of a misdemeanor.
25. "Genetic Resources Databank Inaugurated in Beijing." Xinhua General News Service, January 22, 2002.
Chinese gene researchers have established a databank in Beijing for the collection of genetic resources related to major diseases. The databank, operated by the northern center of the national human genome research scheme, will focus on collecting genetic resources in northern China to facilitate the study of cardiac and cerebrovascular diseases, cancer and other fatal diseases.
26. "Privacy fears raised over genetic data." Courier Mail, January 19, 2002.
Concerns about the privacy of genetic data have dominated submissions to an Australian Law Reform Commission inquiry into gene ethics and laws. Many are worried about DNA information being sold to private organizations. The use of genetic profiling by insurance companies to assess life or health insurance risks also is a key issue.
27. "Hey, you've stolen my DNA." Herald Sun, January 19, 2002.
Discusses whether a person's DNA can be legally protected from duplication. One train of thought is that DNA can be copyright protected because "According to US law, anyone can protect 'original works of authorship fixed in any tangible medium of expression, now known or later developed.'" But others argue that DNA cannot be copyright-protected because individuals don't have "authorship" of their DNA.
28. "Science panel OKs cloning cells, not duplicating people." The San Francisco Chronicle, January 19, 2002.
The National Academy of Sciences has condemned human reproductive cloning yesterday as medically unsafe, but recommends that cloning be allowed for producing stem cells.

Paternity

29. "Nigeria; DNA Test Can't Prove Safiya's Allegation, Says Expert." Africa News, January 21, 2002.
A medical specialist doctor at the University of Cambridge, London, has dismissed as baseless calls by various individuals and human rights organizations for the use DNA test in determining the paternity of the child of a woman who has been sentenced to death for adultery in Nigeria.

30. "Doubts of paternity, DNA tests and fraud." Chicago Daily Law Bulletin, January 21, 2002.
The Illinois Parentage Act of 1984 states that after a man is adjudged the father, the father may nevertheless attack the paternity adjudication on the basis of DNA testing. However, the 1st District Appellate Court recently held that the court could not order the DNA testing.

31. "Top court frees man from child-support order." The Washington Times, January 20, 2002.
Maryland's top court has ruled that a man, who had agreed to pay child support believing he was a father, does not owe the \$12,303 he failed to pay since the baby's birth nine years ago. In a 4-3 vote, the Court of Appeals, in effect, said the man doesn't have to make up the payments because DNA tests proved he was not the child's father.