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The February 1, 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

DNA database expansion bills were introduced in Hawaii, Mississippi, Oklahoma, Virginia and Washington. An all-felons expansion law is coming into effect in Oregon, and lawmakers in Utah intend to introduce an all-felons bill this year. Editorials in Illinois newspapers urge for an all-felons bill in that state, and expansion bills are progressing in Kentucky and Ohio.

An Arizona bill provides an “offender pays” funding mechanism for DNA testing, and the Baltimore police have received a \$350,000 grant for analysis of backlogged DNA casework. The state budget for the Kentucky crime lab may be increased this year, and Georgia’s crime lab may avoid state-wide budget cuts. The Mississippi crime lab is now accepting DNA cases and should save local jurisdictions money.

Bills to extend the statute of limitations for cases with DNA evidence were introduced in Florida and Utah, and a Missouri bill is moving forward. “Cold hits” on offender DNA databases solved crimes in Virginia, Georgia, New York, California Utah.

Bills addressing post conviction DNA testing issues were introduced in Florida, Iowa, Maryland, and Mississippi. A post conviction testing bill is moving ahead in South Dakota. A federal court has ruled that there is no constitutional right to post conviction DNA testing.

In international news, a group in France is calling for DNA from all convicted pedophiles and Australian governments are considering expansion of DNA database authority. In the UK, some local jurisdictions will have more money to spend on DNA analysis, and DNA collected from a drunk driver was linked to an unsolved armed robbery. A medical team in the Republic of Srbska has begun collecting DNA from families of missing persons.

## STATE LEGISLATION

1. Alabama SB 183 – Appropriates \$2.4 million from the state’s DNA Fund.
2. Arizona HB 2349 – Requires offenders to pay the cost of DNA testing. Establishes the DNA Identification Testing Fund.
3. Florida HB 655 & SB 300-- Provides that the statute of limitations does not apply to an offense if the alleged perpetrator of the offense is identified by analysis of DNA evidence collected at the crime scene by law enforcement personnel.
4. Florida HB 823 & SB 1512 -- 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. Florida SB 80 -- Provides an appropriation to compensate the estate of a man who died in prison – pending DNA tests exonerated him.
6. Florida SB 122 -- Provides for postsentencing testing of DNA evidence collected at the time a crime is investigated with respect to a defendant who pleads guilty or nolo contendere to committing the crime.

7. Hawaii HB 2647 – Expands offender DNA database to include Class A & B felonies.
8. Iowa SSB 3022 -- Creates a procedure for a criminal defendant to obtain fingerprint testing or deoxyribonucleic acid (DNA) profiling after a conviction if testing or profiling.
9. Maryland SB 219 – Requires preservation of scientific identification evidence without regard to the State's knowledge that the evidence contains DNA.
10. Mississippi HB 927 – Expands offender DNA database to include all convicted felons.
11. Mississippi SB 2813 -- Expands offender DNA database to include all convicted felons.
12. Mississippi SB 3020 -- Provides civil compensation for an erroneous conviction.
13. Oklahoma SB 979 – Expands offender DNA database to include all convicted felons.
14. Utah SB 139 -- Removes the statute of limitations on violent felonies when DNA evidence has been collected that can be used to identify the perpetrator.
15. Virginia SB 653 – Requires a DNA sample from a “juvenile convicted of a misdemeanor that was initially charged as a felony and a juvenile who receives a dismissal pursuant to deferred disposition for an offense that was initially charged as a felony.”
16. Washington HB 2405 & SB 6489 – Expands offender DNA database to include all convicted felons, plus stalking and harassment.
17. Washington HB 2468 & SB 6473 – Expands offender DNA database to include most convicted felons, excluding drug possession and some other lower level felonies.

#### Genetic Privacy

18. Florida HB 379 -- Requires DNA testing of all live births and the maintenance of such records by the Department of Health. Provides that analysis of such DNA records shall be by court order only.
19. Florida HB 805 – Prohibits human cloning.
20. Florida HB 817 -- Authorizes formation of a study group under Children's Medical Services of the Department of Health, made up of members of the Genetics and Infant Screening Advisory Council designated by the Secretary of Health, to research expanded newborn infant screening programs currently operating in other states.
21. Florida HB 1053 -- Authorizes formation of a study group under Children's Medical Services of the Department of Health, made up of members of the Genetics and Infant Screening Advisory Council designated by the Secretary of Health and a representative from the Florida chapter of the March of Dimes, to research expanded newborn infant screening programs currently operating in other states.
22. Florida SB 1164 – Prohibits human cloning.
23. Iowa SB 2046 -- Prohibits certain activities related to the use or destruction of the materials of human reproduction.
24. Mississippi HB 1616 – Prohibits genetic discrimination in health insurance and by employers.
25. New Mexico HB 340 – Provides for protection of genetic privacy.

26. New Mexico HJM 24 -- Requests a task force to provide its findings and recommendations on the use of genetic information, its application in certain areas and appropriate legal protections and remedies.
27. Utah HB 56 -- Prohibits employers from using private genetic information for hiring and promotion purposes. The act places restrictions on health insurers' use of genetic information with limited exceptions.
28. Virginia HB 1307 – Prohibits genetic discrimination in insurance and employment.
29. Virginia SB 619 – Prohibits exclusions from insurance coverage for services related to genetic predisposition.

#### Paternity

30. Florida HB 73 -- Requires DNA paternity testing in all divorce and child support cases.
31. Florida SB 240 -- Prohibits entry or enforcement of an order of child support when DNA tests indicate that the person against whom the order is sought is not the child's parent, unless that person has adopted the child.
32. Florida SB 1000 – Provides procedures for genetic testing in child support proceedings.
33. Hawaii SB 2180 – Prohibits genetic discrimination in employment and insurance.

#### **NEWS ARTICLES**

1. “Crime & Justice.” The Washington Post, January 30, 2002.  
The Virginia DNA database has linked five sexual assaults in three different counties to one man. The attacks began in 1999. The identity of the attacker is still unknown.
2. “Judge denies damages in DNA-test suit.” The Advocate (Baton Rouge, LA), January 29, 2002.  
A US District judge has ruled that a man who spent 19 years in prison for a rape he did not commit cannot get damages for the state's long refusal to give him evidence for a DNA test.
3. “House gives initial approval to rape bill.” The Associated Press State & Local Wire, January 29, 2002.  
A Missouri House of Representatives policy committee has approved legislation allowing prosecutors to press charges in rape and sodomy cases no matter how old the crime. Prosecutors say new developments in DNA technology mean an anonymous rape can be solved many years after it happens.
4. “Ex-FBI scientist to run forensic science program.” The Associated Press State & Local Wire, January 29, 2002.  
A longtime FBI scientist will help West Virginia University build a new forensic science program that will provide resources and training opportunities for crime-lab workers across the country.
5. “State's DNA database links Fulton County man to 1999 rape case.” The Associated Press State & Local Wire, January 29, 2002.  
In Georgia, the state's new DNA database has linked a man indicted on felony murder charges to a 1999 rape.
6. “Tuesday, Jan. 29, 2001, at the Ohio Statehouse.” The Associated Press State & Local Wire, January 29, 2002.  
A committee in the Ohio House of Representatives has approved a bill that would expand the state's DNA database to include six additional types of crimes. The bill would require that DNA be collected from people convicted of aggravated robbery, attempted aggravated murder, attempted murder, burglary, felonious assault and robbery. If the bill becomes law, more than 17,000 inmates who have not supplied a DNA sample would be required to submit to a blood test.
7. “Center To Be Expanded As Part Of Crime Crackdown.” Central News Agency, January 29, 2002.

Due to Taiwan's progress in using modern technology to crack down on crime, the Scientific Identification Center of the Criminal Investigation Bureau (CIB) will be expanded. According to the CIB's Forensics Office, the Taiwan police force has noticeably upgraded its ability to probe sexual violence cases in recent years by using DNA technology.

8. "Man Convicted in 'Cold Hit' DNA Case." City News Service, January 29, 2002.  
In California, a man arrested through a "cold hit" on the state DNA database has been convicted of rape and other charges for a 1995 attack on a 14-year-old girl. The evidence was tested thanks to assistance from a \$50 million state grant to crime labs to analyze unsolved DNA cases.
9. "Crime Lab Resumes DNA Tests, Saves Agencies A Bundle." Commercial Appeal (Memphis, TN), January 29, 2002.  
The Mississippi crime lab has begun accepting DNA cases. The lab has received over 200 serology samples for testing since the beginning of the year. DNA testing at the lab costs approximately \$100. The crime lab also has added \$200,000 worth of DNA testing equipment, purchased with a federal grant, and the lab's goal is to complete DNA tests in 45 to 60 days.
10. "Inmate admits to 1996 attempted rape after DNA link made." The Times Union (Albany, NY), January 29, 2002.  
In New York, a man serving time for raping an 83-year-old woman has pleaded guilty to the 1996 attempted sexual assault of a teenager after DNA linked him to the unsolved crime. The connection was made through a cold hit on the New York offender DNA database.
11. "DNA testing for all convicts." Chicago Tribune, January 29, 2002.  
Editorial argues in favor of expanding the Illinois offender DNA database to include all convicted felons. Reports that the success of Virginia's database is a good reason for other states to consider expanded databases. Proponents of the bill argue that the cost of maintaining the database is far less than what local jurisdictions have had to pay in recent wrongful conviction suits. "Anyone who is arrested can already expect to be fingerprinted. There's little difference in obtaining their DNA at the time of conviction, except for the great potential to solve more crimes and reduce the chances that an innocent person will be sent to prison."
12. "100 Come Forward For DNA Test In Rape Inquiry." Evening News (Edinburgh), January 28, 2002.  
In a community in the UK, more than 100 people have submitted to a voluntary DNA test following the rape of a teenage girl in the grounds of a nursery school. Detectives hope to screen more than 1000 boys and men living in the area. Negative samples will be destroyed.
13. "DNA Helps Crack 'Cold Case'." The Salt Lake Tribune, January 28, 2002.  
A "cold hit" on the Utah DNA database has solved the rape of a pregnant woman in 1999. A member of the state House of Representatives is introducing legislation to expand the state offender DNA database to include all convicted felons, plus those on probation or parole. The increase would mean an additional 23,800 additional DNA profiles this year and an additional 7,000 in subsequent years. Virginia's database had 33 cold hits prior to the end of January. The state ACLU intends to review the bill and will oppose it particularly if there are not provisions further restricting the misuse of DNA information. The Salt Lake County Sheriff would like to see the bill broadened to include "everyone that gets booked into my jail."
14. "Oregon ready to expand its DNA database." The Seattle Times, January 28, 2002.  
A new law in Oregon coming into effect will expand the state's DNA database to include all convicted felons. In the first decade of the database, the state collected about 19,000 DNA samples. Under the new law, an additional 50,000 samples will be collected in the next six months. Thus far, the database has led to 63 matches -- 30 of which were in 2001.
15. "Lawyers get ready to fight DNA ruling." USA Today, January 28, 2002.  
A federal appeals court in Virginia has decided that inmates have no constitutional right to DNA testing that could prove their innocence. The unanimous opinion overruled a 2001 decision by a lower court judge who found that the prosecution violated the inmate's constitutional rights to due process by not giving him access to the DNA evidence. The chief justice wrote, "This evidence was already subjected to DNA testing using the

best technology available [then]. Establishing a constitutional due process right . . . to re-test evidence with each forward step in forensic science would leave perfectly valid judgments in a perpetually unsettled state." Defense attorneys may appeal the decision to the Supreme Court.

16. "Police charge man in North Austin rape." Austin American Statesman, January 27, 2002.  
In Austin, Texas a man has been charged with kidnapping a pizza delivery woman at gunpoint and robbing and sexually assaulting her. Police intend to check the man's DNA profile against the state DNA database. [A new law passed in 2001 allows police to take DNA samples from certain indictees for comparison against the state database.]
17. "Time to make most of DNA tests in fight against crime." The Canberra Times, January 27, 2002.  
Editorial criticizes the Australia Capital Territory (ACT) for not using its authority to collect DNA samples from offenders. The ACT government says it has been attempting to work out the logistics for collection but has not yet been able to implement it.
18. "Armed robber trapped by DNA." UK Newsquest Regional Press - This is Lancashire, January 26, 2002.  
In England, a man who was pulled over and failed a breath test had a DNA sample taken – which is routine practice in that country. Once analyzed and submitted to the national DNA database, the man was linked to an unsolved armed robbery. The man had cut himself while breaking into the store and left blood behind. "I hope this will act as a double incentive not to drink and drive, but also to remind criminals that any interaction with the police can lead to convictions for crimes past."
19. "20/20 pays to have DNA kits tested that have been sitting on shelves in the Baltimore Police Department." ABC News (20/20), January 25, 2002.  
20/20 offered to pay half the costs of DNA testing on 50 rape kits backlogged at the Baltimore Police Department. The testing eventually solved 4 crimes through linkages on the DNA database, and exonerated one man.
20. "French group urges British-style register for child abusers." Agence France Presse, January 25, 2002.  
A French anti-pedophile group, l'Enfant Bleu-Enfance Maltraitee, is demanding that convicted pedophiles be put on a sex offenders register, such as exists in Britain. The group gave a report to the French justice ministry last November calling for convicted pedophiles to give DNA samples, undergo psychiatric treatment and divulge their address once released from prison.
21. "Lawmaker wants GBI to avoid budget cuts." The Atlanta Journal and Constitution, January 25, 2002.  
The Georgia Bureau of Investigation has warned budget cuts would re-create a crime lab backlog that was erased only two years ago. The Chair of the State House Public Safety Committee intends to look more closely at the GBI budget and has indicated that GBI may be exempted from the Governor's across-the-board budget cuts. Four years ago, the Georgia forensic lab was so backlogged that prosecutors sometimes waited more than a year for test results crucial in a criminal case. The lab now turns around most of its results within a month, thanks to a \$50 million funding boost by the Legislature since 1998.
22. "No action by ACT police on forced DNA testing." The Canberra Times, January 24, 2002.  
In Australia, the no prisoners in the Australia Capitol Territory have been DNA tested despite legislation allowing compulsory testing of inmates. The paper reports that "the failure to act is in sharp contrast to Victoria where it was disclosed yesterday that forced DNA testing had enabled police to charge 99 prisoners with unsolved crimes."
23. "Police Chiefs Welcome 149m Pounds Budget Boost." Evening News (Edinburgh), January 24, 2002.  
Police chiefs in Lothian and Borders (United Kingdom) are receiving an "unprecedented" level of funding from local authorities. The contribution of over pounds 149 million for this year's budget will mean extra cash for **DNA** testing and computer enhancements, among other things.
24. "DNA powers may widen." Herald Sun, January 24, 2002.  
In Victoria, Australia, the Government is considering allowing police to take DNA samples from suspects as they are charged. This proposal comes after the DNA program was credited with linking 99 prisoners with 238

previously unsolved crimes in its first year of operation.

25. "House Bill Expands DNA Lists, Testing; State Police Say Increase In Work Will Require More Funding." The Lexington Herald Leader, January 24, 2002.  
If they can locate the funding, legislators in Kentucky want to enact legislation to expand the pool of felons who must submit DNA samples; guarantee Death Row inmates the right to relevant DNA tests; and require courts to save DNA evidence after trials. The Governor has included an additional \$1.5 million in his budget proposal to hire 26 more scientists and buy equipment, but the lab says that will only bring the lab up to speed on its current work. The DNA database provision would cost \$571,000 the first year, including new equipment, and \$143,000 in subsequent years.
26. "Expanded DNA testing of all felons a logical step." The Pantagraph (Bloomington, IL), January 24, 2002. An Illinois editorial states that "Obtaining samples from all convicted felons is the next logical step." The DuPage County State's Attorney, a Republican attorney general candidate, is supporting the legislation and describes DNA testing as "the fingerprint of the next millennium."
27. "Committee endorses plan to help convicts get DNA tests." The Associated Press State & Local Wire, January 23, 2002.  
In South Dakota, state lawmakers are attempting to enact legislation to allow inmates greater access to post conviction DNA testing. The bill would allow prison inmates serving sentences for murder, rape or other sex crimes to request that the state conduct DNA testing on evidence relevant to their cases. The Governor vetoed a similar measure last year after saying it was unnecessary because inmates already can request DNA tests under guidelines set by the South Dakota Supreme Court. He also said the extra testing could have cost the state thousands of dollars.
28. "Grant set to fund DNA tests by police." The Baltimore Sun, January 23, 2002.  
A Baltimore-based foundation has given city police a grant worth up to \$350,000 to pay for DNA testing backlogged crime scene evidence. The grant will initially fund tests on evidence in 124 homicide cases in which detectives believe they have a suspect but lack enough information to obtain a warrant to test the suspect's DNA against the specimen. If the tests lead to DNA matches, police will receive a second and third round of funds -- up to a total of \$350,000 -- to test evidence in 90 high-priority rape cases and 500 homicides that might have DNA evidence but no suspects. City police and the Mayor are pushing state legislators to spend \$4 million to increase DNA testing, and they are also pushing to add all convicted felons and serious misdemeanors to the DNA database.
29. "First Action Of Taking Blood For DNA Identification In Zvornik." Onasa News Agency, January 18, 2002.  
A medical team of the Republika Srpska's Commission for Missing Persons has for the first time carried out an action of taking blood from the members of the families of missing Zvornik persons for DNA analyses. Mobile teams have so far collected 17,198 blood samples in 97 municipalities in BiH. More than 6,000 people killed during the war in BiH have been exhumed and approximately 4,000 of them have not yet been identified.