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The February 22, 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 Maryland and Kansas, and one is being drafted in California. An Arizona bill would require DNA from arrestees, and numerous editorials supported the almost-enacted Virginia legislation that would require DNA samples from violent arrestees. The head of Chicago Police has called for arrestee testing in Illinois.

“Crushing” backlogs at labs in Indiana and Mesa, Arizona made headlines. Cold hits were reported on Virginia (prior drug conviction), Massachusetts (prior robbery conviction) and California. Virginia is preparing to execute the first criminal identified through a “cold hit.”

A post conviction DNA bill has been introduced in Alabama, a similar bill was defeated in South Dakota, and an Arkansas judge upheld the constitutionality of post conviction statute in that state. A Virginia post conviction testing case is moving forward, a Nevada county’s review of possible cases for post conviction testing is not finding any eligible, and an inmate in Pennsylvania has been released on the results of DNA testing. An Illinois post conviction case has not only further linked the man to the crime, but has also implicated him in a second case.

Police in Australia are calling for uniform, nationwide expansion of DNA policies. An American laboratory is assisting the Panamanian government in identifying remains of victims of previous dictatorships, and Canadian labs nationwide are testing remains from a Vancouver site in the search for 50 missing women.

## STATE LEGISLATION

1. Alabama SB 420 -- To allow an individual serving a term of imprisonment or awaiting execution for a capital offense to file a motion to obtain forensic DNA testing on evidence that was secured in relation to the trial that resulted in his or her conviction.
2. Arizona HB 2674 – Requires DNA testing of arrestees.
3. Kansas HB 2880 – Expands offender DNA database to include all convicted felons.
4. Maryland HB 1053 – Expands offender DNA database to include all convicted felons.
5. Michigan HB 5622 – When disposing of DNA samples, the crime lab would be required to provide a copy of the written record of the disposal to the subject.
6. Michigan SB 1116 – Funding bill contains an earmark for the DNA analysis program.
7. Missouri HB 1108 -- Funding bill contains an earmark for DNA analysis.
8. New York AB 9752 & SB 6252 – Appropriations bill for public safety. Includes funding for DNA analysis (state and some local).

## Genetic Privacy / Research

9. Florida HB 1831 – Creates the "Genetic Counseling Practice Act."
10. Illinois HB 6048 – Creates the "Genetic Counseling Practice Act"
11. Maryland HB 1132 & SB 815 – Creates a “Genetics Public Education Program.”
12. Maryland HB 1133 -- Establishes the State Board of Genetic Counselors.
13. Maryland HB 1134 – Establishes requirements for directors of medical laboratories conducting genetic tests.
14. Missouri HB 1870 – Requires the state to maintain a central registry and collect and store data on genetic diseases and birth defects to assure genetic services and appropriate follow-up are provided.
15. New Hampshire HB 1464 – Prohibits human cloning.
16. South Carolina SB 1014 -- Requires parental consent for DNA samples for testing. Authorizes a parent or a person over eighteen to request in writing that any sample taken for testing be destroyed.
17. Florida HB 1689 – Establishes various regulations around requirements for genetic testing in paternity cases.

## **NEWS ARTICLES**

1. “DNA Test Ordered in Sex Assault.” The Washington Post, February 20, 2002.  
In Fairfax County, Virginia, a judge has ordered post conviction DNA testing for a man convicted to 40 years in prison for a 1989 murder. The order is the first for Northern Virginia under a 2001 post conviction testing law.
2. “News in brief from the San Francisco Bay area.” The Associated Press State & Local Wire, February 19, 2002.  
In California, a man accused of a kidnapping and attempted sexual assault will have to give his DNA to the state DNA database under a law enacted in 2001 that requires samples from convicted burglars. The man has four previous burglary convictions. The Attorney General revealed that forty-three percent of the convicted sexual offenders in California have a prior burglary conviction.
3. “Newborn blood samples shared with research center, SLED.” The Associated Press State & Local Wire, February 19, 2002.  
In South Carolina, state health officials have confirmed that the agency has shared blood samples taken from newborns with a genetics research center and the State Law Enforcement Division. The health department sent about 1,000 anonymous samples to SLED in 1993 as the law enforcement agency started to build a DNA database. The samples were never used, but have remained in a SLED freezer.
4. “Lazy charge lobbed at ALP.” Herald Sun, February 19, 2002.  
In Victoria, Australia, the State Government indicated that it would be considering DNA database legislation in the upcoming session.
5. “DNA evidence challenged.” Montreal Gazette, February 19, 2002.  
In Canada, a nurse charged with raping a psychiatric patient and getting her pregnant is trying to have DNA evidence linking him to the crime thrown out of court. The DNA evidence is a paternity test linking him to the woman’s child. The defense argues police acted improperly to get a warrant forcing the man to give a DNA sample.
6. “In Georgia, Remains of 200 People May be Grounds of Crematory.” CNN (CNN Live Today), February 18, 2002.

In Georgia, police are asking family members to submit DNA so that they can positively identify the bodies found at a crematorium that were never processed.

7. "DNA testing unnecessary in any death penalty cases reviewed so far." Las Vegas Review Journal, February 18, 2002.  
In Clark County, Nevada last fall, the district attorney's office announced it was conducting a review of all Southern Nevada death penalty cases to see whether DNA testing could have changed their outcomes. To date, about a third of those cases have been reviewed, but prosecutors say new DNA testing has not been necessary in a single instance.
8. "Dr. Paul Ferrara discusses the proposed law in Virginia regarding taking DNA samples from felony arrestees." National Public Radio (All Things Considered), February 18, 2002.  
Interview with the Director of Virginia's Division of Forensic Science regarding pending legislation to require DNA samples from persons arrested for violent crimes. Dr. Ferrara was questioned about various civil liberty aspects of the measure.
9. "Metairie lab tests bones from Panama." The Times Picayune (New Orleans), February 18, 2002.  
Article on ReliaGene's efforts to identify the remains of as many as 200 persons who went missing in Panama during the reigns of Torrijos and Noriega. ReliaGene was hired by a commission that Panamanian President Mireya Moscoso established in January 2001.
10. "Yet Another DNA Exoneration." The Washington Post, February 18, 2002.  
Editorial regarding a man in Pennsylvania who was released from jail last week after being locked up for 15 years for a pair of rapes that DNA testing now suggests he could not have committed. "The lesson is that the laws governing post-conviction DNA testing need to be relaxed enough to make it the rule, not the exception, where a claim of innocence can be verified or refuted on the strength of a new test."
11. "State police seek help to reduce crushing caseload." The Associated Press State & Local Wire, February 17, 2002.  
State police have asked lawmakers for more money to reduce a backlog of 5,287 cases at Indiana's crime laboratories. However, authorities say that even with the cash they may need years to clear the cases awaiting analysis. Currently, DNA testing is almost at a year-long backlog. The Governor has been requesting a measure to raise \$8 million a year for the labs with a new \$15 fine added to those already paid for such things as speeding and other traffic tickets. The new fee would fund a second shift at the crime labs, essentially doubling the current staffing of 57 scientists and technicians.
12. "City's crime lab has growing backlog for DNA evidence." The Associated Press State & Local Wire, February 17, 2002.  
At the crime lab in Mesa, Arizona, the number of cases involving potential DNA evidence had climbed 65 percent to 691, up from 418 cases 11 months ago. The crime lab has four DNA analysts and can process 240 to 300 DNA cases a year. At that rate, the lab could catch up only if crime took a vacation for two to three years.
13. "Virginia May Collect DNA In Every Arrest for a Felony." The New York Times, February 17, 2002.  
Virginia is on the verge of enacting legislation to begin requiring DNA from persons arrested for violent felonies. Virginia already has the largest DNA database in the US and requires DNA from all convicted felons. The new law would add 8000 new DNA tests each year. The bills' proponents predict that testing those arrested will produce many more matches and make it more likely that the courts will keep such suspects off the street in the 6 to 18 months it takes for a case to reach trial.
14. "Uniform DNA test call." Sunday Mail (SA), February 17, 2002.  
In Australia, the national Police Federation, representing 43,000 police, has called for South Australia to implement uniform DNA matching or fall "dangerously behind" in clearing serious crime. Police want testing of suspects as young as 15 and taking samples, by force if necessary, to be made uniform nationwide. The Government announced last month that all prisoners and those suspected of serious crime would undergo compulsory DNA testing under new laws which would be fast-tracked through Parliament, but the proposal is only at discussion stage and is facing opposition from civil liberties and law groups.

15. "Judge thinks retroactive genetic-testing law is constitutional." The Arkansas Democrat Gazette, February 16, 2002.  
In Arkansas, a Circuit Court Judge has said that he believes that a new law allowing inmates to request genetic testing of evidence, if such technology wasn't available during their trials, is constitutional. The constitutionality of the law was questioned by a prosecuting attorney's office after an inmate asked that hair samples from his 1979 capital murder trial be tested for DNA. He was sentenced to life in prison.
16. "DNA tests implicate man instead of clearing him." The Deseret News (Salt Lake City, UT), February 17, 2002.  
In Illinois, DNA tests that a man hoped would clear him in a 1999 rape and stabbing instead implicated him in that case and also tied him to a second unsolved rape.
17. "DNA samples get top priority." Vancouver Sun, February 16, 2002.  
In Canada, samples from people who have been inside a trailer on a pig farm are being tested in RCMP labs across Canada to speed up the analysis. They have agreed to provide samples of their DNA in order to compare it with items containing DNA found inside the mobile home. The trailer has become the focus of a police investigation into the disappearance of 50 prostitutes.
18. "DNA test frees rape suspect." Chicago Tribune, February 16, 2002.  
In Illinois, a man jailed for almost a month on charges of raping a female neighbor was released from custody after preliminary DNA tests failed to link him to the crime. Prosecutors obtained a DNA sample from the man by court order after he declined to give one voluntarily.
19. "DNA tests urged for all arrestees." Chicago Tribune, February 16, 2002.  
The Chicago Police Supt. has called for a new state law allowing police to take DNA samples from anyone who is arrested. The proposal could cost as much as \$15 million a year in Chicago and would likely draw legal challenges. He also called on the state to fund the DNA program.
20. "DNA snares suspect in '97 murder." The Boston Herald, February 15, 2002.  
After collecting DNA from a man who returned to prison on a parole violation, the Massachusetts police tied the man to an unsolved murder through the state DNA database. The man was on parole for robbery when he murdered the pregnant mother of seven in 1997.
21. "First 'Cold Hit' Execution Set For March." The Richmond Times Dispatch, February 15, 2002.  
In Virginia, the first man convicted of murder thanks to a cold hit on the state's DNA database has been scheduled for conviction. The execution may also be the first in the nation from a cold hit.
22. "Toothbrush used to identify body parts." The Associated Press State & Local Wire, February 14, 2002.  
A toothbrush enabled Houston homicide detectives to identify a man whose body parts were found two months ago in three plastic garbage bags. The remains were matched to the DNA on the toothbrush and hair samples belonging to a missing Colombian who had been living in Houston.
23. "Cast Wider The DNA Net." Roanoke Times And World News, February 14, 2002.  
Editorial supporting the Virginia legislature's efforts to require DNA samples from persons arrested for violent felonies. The Virginia Governor is said to share some of the critics' concerns but likes a provision that lawmakers added to expunge the DNA records of people who are later acquitted, or whose cases eventually are dismissed.
24. "Take DNA From Suspects, But Add Safeguards." The Virginian Pilot (Norfolk, VA), February 14, 2002.  
Editorial supporting the Virginia legislature's efforts to require DNA samples from persons arrested for violent felonies, if the following conditions are met: 1) prosecutors would make sure that DNA samples are destroyed and records purged if a suspect is found innocent.; and 2) police and prosecutors more easily give citizens information about the arrests of suspects - including probable cause. This would help ensure against arrests made merely to obtain DNA samples.

25. "Judge allows DNA evidence in rape-murder trial." The Associated Press State & Local Wire, February 13, 2002.  
In Maine, a County Superior Court has ruled that prosecutors can present at trial the genetic evidence that led to the arrest of a suspected rapist-murderer eight years after the crime. The judge ruled that there was ample reason to believe that a blood sample from Bates would be relevant and that a district court judge was correct in issuing a search warrant eight years ago.
26. "House committee kills plan to help convicts get DNA tests." The Associated Press State & Local Wire, February 13, 2002.  
In South Dakota, a House Committee has killed a bill that would give inmates greater access to post conviction DNA testing. The bill had already passed the Senate, but opponents said the bill would lead to unnecessary, expensive tests. The governor vetoed a similar bill last year on similar grounds.
27. "DNA Match Helps Tag Felon." Daily Press, February 13, 2002.  
A cold hit on the Virginia DNA database has solved a rape from 1998. The man was linked to the crime after submitting a DAN sample to the state database due to a recent conviction for drug dealing.
28. "DNA tests for suspects." The Washington Times, February 13, 2002.  
Editorial advocates for the pending Virginia legislation to require violent felon arrestees to submit DNA samples for the state's DNA database. Likens DNA testing to fingerprinting, which is required for all arrestees in Virginia.
29. "A Good Bill on DNA." The Washington Post, February 13, 2002.  
Editorial advocates for the pending Virginia legislation to require violent felon arrestees to submit DNA samples for the state's DNA database. "The proposed change is a good one. It should help investigators solve important cases, while having minimal impact on civil liberties."
30. "Bill Would Urge Expanded DNA Crime Database." The Daily News of Los Angeles, February 11, 2002.  
A California Assemblymember wants to expand the state DNA database to include more convicted felons. Assemblyman Wyman said he wants to catalog DNA samples from all adults convicted of felonies, juveniles tried as adults and certain misdemeanor offenders. The bill, which has not been drafted, will not be heard by the Assembly Criminal Justice Committee until April. It is fashioned after similar legislation that passed in Michigan last year.
31. "Federal budget plan would cut millions from local programs." Ventura County Star, February 11, 2002.  
Under the proposed federal budget submitted by President Bush, the Ventura crime lab could lose up to \$3 million to in renovation funding.
32. "DNA Match Links Convict To 2001 Attack." West County Times, February 7, 2002.  
In Berkeley, California, a cold hit on the state DNA database has linked one man to a rape, and has exonerated another man. The man exonerated had been identified in a lineup.

#### Genetic Privacy & Research

33. "Legislative committee considers cloning measure." The Associated Press State & Local Wire, February 18, 2002.  
In Oklahoma, a legislative committee has endorsed a bill that bans human cloning but leaves the door open for the use of cell transfer technology to clone molecules, cells and tissues.
34. "Lawmakers Close In On Gene Information Thieves." Sydney Morning Herald, February 15, 2002.  
In Australia, the Law Reform Commission and Australian Health Ethics Committee is studying the issue of genetic theft as part of an inquiry into the protection of human genetic information, due to be completed in 2003. The committee is considering such issues as the legality of commercial labs testing DNA from children, husbands and wives in paternity cases without the knowledge of at least one of the parties.

35. "Watchdog might urge DNA theft be made an offence." The Guardian (London), February 14, 2002.  
In England, the government's main genetics watchdog is considering recommending that a new criminal offence of "stealing" an individual's DNA be created.