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The April 12, 2002 DNA legislative and media summary 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

A DNA database expansion bill has been enacted in Kentucky, and competing versions an Illinois all felons DNA expansion bill have passed the House and Senate. A California measure to allow the use of force in collecting DNA samples has been given a reprieve.

Cold hits solved a robbery in Wisconsin (linked to a drug felon), and a sex assault in Maryland (linked to an Illinois sex offender). The DNA database has also been helpful in linking 9 assaults in Texas to one offender.

In post conviction testing news, DNA tests have led to the release of an inmate in Arizona, and requests for testing have been rejected in California and approved in Wisconsin. A local review of convictions in a Minnesota county is nearly complete and has not resulted in any additional testing.

In international news, New Zealand is proposing an expansion of the national database (which has been widely supported by local press), and the Canadian Supreme Court has upheld an order for a DNA sample in the case of a robbery conviction. DNA testing is central in solving the deaths of some missing persons in India, and the International Commission on Missing Persons has made its 100<sup>th</sup> DNA identification in the former regions of Yugoslavia.

## STATE LEGISLATION

### Genetic Privacy / Research

1. Hawaii SB 2180 – Prohibits health insurance discrimination based on genetic information.

## NEWS ARTICLES

### Forensic DNA

1. “Sexual Assault: Stray Y chromosomes can confirm an allegation of rape.” Genomics & Genetics Weekly, April 12, 2002.  
A French study suggests that a DNA test that can detect the male Y chromosome even if no sperm was found should be widely adopted as backup tests in rape cases.
2. “State Senate committee keeps bill on extracting DNA from prisoners alive.” The Orange County Register, April 10, 2002.  
In California, legislation that would allow the use of force to extract blood and saliva samples from state prison inmates for DNA tests is still under consideration. The Senate Leader has been publicly opposed to the bill, but the Public Safety Committee said it would reschedule hearings on the bill after it has been revised. Pleas from family members of victims were a decisive factor in persuading the committee to give the bill a second chance. Meanwhile, the state Department of Corrections is revising internal policies to allow its officers to use force to extract DNA. The agency may also seek a court order to use force to obtain the DNA, but officials say it is a cumbersome and costly process.

3. "DNA Leads to Release of Ariz. Convict." AP Online, April 9, 2002.  
In Arizona, man serving a life prison sentence for the 1991 stabbing death of a bartender was released after prosecutors said DNA tests indicated he wasn't responsible for the crime. Authorities say a DNA sample taken from saliva and blood found on the stabbing victim does not match the man who was convicted of the crime, but does match the DNA of another inmate currently serving time for an unrelated sex crime. The man has served 10 years in prison.
4. "FBI Agents Demand DNA From Suspects." AP Online, April 9, 2002.  
FBI agents are demanding blood, hair and saliva samples for DNA testing from four men charged in a kidnapping scheme allegedly tied to Russian mobsters. The five victims were found dead in a Northern California reservoir. Federal agents have a search warrant to take DNA samples.
5. "Relative of missing woman wants DNA test on remains." The Associated Press State & Local Wire, April 9, 2002.  
A family in Alabama would like DNA testing on the remains of three victims believed to be those of missing relatives, but the FBI has refused to pay for the testing. The family has been unable to come up with the money needed to pay for the DNA testing. The persons had been missing since 1989 and the remains were only recovered last year. The FBI cannot justify the cost of testing because it believes the remains belong to the three. The local sheriff would also like to have the DNA testing done, particularly since a criminal act has not been ruled out in the cause of death.
6. "DNA being checked to see if man fathered 12-year-old's fetus." The Associated Press State & Local Wire, April 9, 2002.  
In Albuquerque, New Mexico, DNA from an aborted fetus will be used to identify who impregnated a 12-year-old fifth-grader. The prime suspect has admitted to sexual relations with the child.
7. "Man pleads guilty in sex offense from 1989." The Baltimore Sun, April 9, 2002.  
A Chicago engineer, who was the first suspect in a sex crime to be charged in Maryland based entirely on a "cold hit" from the DNA database, has pleaded guilty yesterday to a first-degree sex offense. The man's DNA profile was included in the national DNA database after he registered as a sex offender in Illinois for a North Carolina conviction of "taking indecent liberties with a child."
8. "Govt Proposes Law Change To Widen DNA Testing Net." The Christchurch Press, April 9, 2002.  
In New Zealand, the Government is proposing a change to the current DNA law that would require DNA testing of inmates convicted of serious crimes before 1996. The government had previously announced it would be expanding collection to include burglary convictions. This additional expansion makes the law retroactive to include those persons convicted before the effective date of the original Act but still serving time in prison.
9. "Harnessing DNA." The Christchurch Press, April 9, 2002.  
Editorial from a New Zealand newspaper supports the Government's proposal to expand its criminal DNA program (see details in previous article.) "In fact, many New Zealanders will agree with the National Party in saying that all those arrested should be sampled. That would result in much higher rates of matching crime-scene DNA with material on file, with a consequent dramatic improvement in detection and conviction. The only people with real concerns about that -- as with all these moves on DNA -- will be criminals and potential criminals. Law-abiding citizens have nothing to fear from science the truth teller. "
10. "DNA Testing." City News Service, April 8, 2002.  
A Los Angeles Superior Court judge has rejected a defense motion for DNA testing on behalf of a man convicted of the 1985 rape and murder. The judge ruled that even if tests showed DNA collected from sperm found on the victim did not come from the defendant, such results would be unlikely to change his conviction. The man confessed to the killing but later recanted, saying he had been coerced into giving a statement.
11. "DNA Leads To Arrest Of Suspect." Credit Union Journal, April 8, 2002.  
In Wisconsin, DNA taken from a glove left behind during an armed robbery at a bank led police to charge an inmate in the state prison for the heist. The inmate was serving time in prison on drug charges when he was linked to DNA found on the glove he allegedly left behind after the hold-up.

12. "DuPage police aren't sure where to store clues they must keep forever." Chicago Daily Herald, April 7, 2002. Illinois evidence rooms are beginning to see their space quickly filling up due to new laws that lengthen the amount of time that evidence from crime scenes must be kept. Many jurisdictions expect to begin running out of storage space in the next few years.
13. "Only A Few Bills Pass; Some Get Watered Down." The Lexington Herald-Leader, April 7, 2002. A Kentucky bill has been signed into law to expand the state's offender DNA database to include most violent felonies and burglary. However, the expansion will not start until funds are available to pay for crime-lab testing. The bill also expands inmate access to post conviction DNA testing.
14. "DNA ties rapist to 9 assaults." Fort Worth Star-Telegram, April 6, 2002. A man believed responsible for two rapes within five months in the same Texas city has been linked by DNA evidence to seven other rapes in three other cities. The rapes were linked to one another through the DNA database. Investigators originally did not believe the rapes were linked to one another.
15. "CBI Claims Leads In Garbeta Case." The Economic Times, April 5, 2002. In India, the CBI has claimed 11 political activists who mysteriously disappeared from Garbeta, West Bengal, may have been killed in post-poll violence in January 2001. The agency cited DNA tests of blood-soaked soil samples from the scene of violence as the clinching evidence to back the claim.
16. "Man can't avoid DNA test." Edmonton Journal, April 5, 2002. The Supreme Court of Canada has dismissed an application to appeal a 2000 Ontario Court of Justice order that a man convicted of robbery offer the DNA samples for the national database.
17. "Fetus legislation doesn't pass senate." The Pantagraph (Bloomington, IL), April 5, 2002. The Illinois Senate has unanimously approved a bill that would expand the offender DNA database to include all convicted felons. Senate Bill 2024 now goes to the House. The measure is similar to House Bill 3717, which as already passed the House and is awaiting approval in the Senate
18. "International Commission on Missing Persons Makes 100th In-Country DNA-Based Identification Report." PrimeZone Media Network, April 5, 2002. The International Commission on Missing Persons [ICMP] made its 100th in country DNA-based identification report on April 4 - less than six months after making its first, on November 16, 2001. The majority of these 100 DNA-based identification reports have been generated in the past two weeks. As ICMP prepares to enter the next phase of its DNA identification efforts, increasing throughput at its Tuzla and Sarajevo facilities by 50 percent, the science of identification has changed. The DNA profiling and database comparison technologies developed by ICMP have dramatically reduced the cost of DNA testing, while improving accuracy and speed.
19. "Judge orders new DNA testing for man serving sentence in 1985 attack." The Associated Press State & Local Wire, April 4, 2002. In Wisconsin, a judge has granted an inmate's request that more DNA tests be done in his attempt to prove his innocence in a 1985 attack of a woman jogger. The man is serving a 32-year sentence for attempted first-degree murder in the attack on the woman. DNA tests were performed in 1996 but the judge ruled the evidence did not warrant a new trial. However, in his new ruling, the judge agrees that a more sophisticated test developed since then could produce more evidence from hair and fingernail scrapings.
20. "DNA evidence links suspect to 2 rapes." Intelligencer Journal (Lancaster, PA.), April 3, 2002. Pennsylvania police have determined that the same man is responsible for two rapes.
21. "Ramsey County: DNA review nearing an end." Saint Paul Pioneer Press, March 25, 2002. In Ramsey County, Minnesota, county prosecutors are nearing the end of a mass review of past convictions to see if DNA analysis might shed new light on old cases. Thus far, there are only two cases that the prosecutors say may be eligible for DNA testing. The review focused on pre-1995 convictions for violent crimes in Ramsey County in cases where the defendant remained in prison. The review generally did not include more recent

cases because DNA analysis became more routine after 1994.

22. "The physician as gatekeeper to the use of genetic information in the criminal justice system." *Journal of Law, Medicine & Ethics*, March 22, 2002.  
Lengthy discussion on genetic privacy issues, but also discusses criminal justice genetic issues and its potential intersection with physicians' responsibilities. Suggests that physicians should never turn over genetic information on a suspect to law enforcement without a search warrant, and genetic research databases should not be accessible to law enforcement.

#### Genetic Privacy / Research

23. "Report: Woman carrying cloned embryo." *St. Petersburg Times*, April 6, 2002.  
An Italian scientist said a female patient in his cloning project was eight weeks pregnant, according to a published report from the United Arab Emirates. The pregnancy, if true, marks the first time a woman has carried a developing cloned embryo, bringing the possibility of a cloned human baby significantly closer.
24. "Genetic Makeup Bill Gets 1st Nod." *Rocky Mountain News* (Denver, CO), April 5, 2002.  
In Colorado, insurance companies and employers would not be able to use genetic information to deny insurance or employment under a bill that has won preliminary approval in the Senate.
25. "Senate Bill Aims at Banning Use of Genetic Information in Employment." *Privacy and Information Law Report*, March 2002.  
A US Senator has introduced a bill called the "Genetic Information Nondiscrimination Act of 2002" (S. 1995). S. 1995's health insurance provisions are intended to prevent insurance companies from discriminating against individuals on the basis of genetic testing. According to its sponsors, insurance companies currently can use the results of genetic testing to deny or limit coverage or to raise premiums to consumers. The bill is also designed to complement existing laws prohibiting employment discrimination on the basis of race or disability.
26. "Insurers, providers debate proper use of predictive tests." *Managed Healthcare Executive*, February 2002.  
Patients' concerns about genetic discrimination by their insurance companies and employers are growing. Insurance companies are scrambling to meet federal and state regulations trying to prohibit them from obtaining or using genetic information. Physicians are trying to keep up with the ever-changing landscape of the medical field. But the issue causing the most discussion is whether genetic information should be treated differently than other types of personal health information, and whether it should be afforded special protections.