

2003 Post Conviction DNA Legislation
Prepared by Smith Alling Lane on behalf of Applied Biosystems
(As of December 2003 - Final)

**Many of these bills will be carried over to the 2004 sessions for consideration. This tracking list reflects what happened to legislative proposals in 2003, only.*

ST	Bill #	Sponsor	Summary	Status
AL	SB 275	Sanders	Allows a defendant to seek the performance of fingerprint or forensic DNA testing on evidence that was secured in relation to the trial which resulted in his or her conviction	Died in Committee
AR	HB 2226	Lendall	Death Penalty Moratorium Act. Requires a study is to include "procedures to ensure that persons sentenced to death have access to forensic evidence and modern testing of such evidence, including DNA testing, when such testing could result in new evidence of innocence.	Died in Committee
CO	SB 164	Gordon	Creates a procedure for requesting post-conviction DNA testing. Prohibits a court from ordering DNA testing unless there is a reasonable probability that the case meets certain minimum standards. Inmates or the defense must pay for testing. States there is no duty on law enforcement to preserve biological evidence and no liability for failure to preserve biological evidence.	ENACTED
CT	HB 6612	Judiciary Committee	Death row inmates may petition the superior court at any time for DNA testing. The court must find that there is a reasonable probability that the conviction would not have occurred if DNA results had been obtained. The evidence must not have been tested before, and the petition must have been filed "in order to demonstrate the petitioner's innocence and not to delay the administration of justice."	See HB 6700
CT	HB 6700	Judiciary Committee	To ensure that wrongfully convicted persons have an opportunity to establish their innocence by providing for the electronic recording of interrogations, preservation of DNA evidence, postconviction DNA testing and sequential identification procedures, and to establish an advisory commission to review cases in which an innocent person has been wrongfully convicted.	ENACTED
DE	SB 32	Wagner	Allows additional time for DNA testing motions for those whose judgement of conviction was final prior to September 1, 2000.	See SB 38
DE	SB 38	Henry	Allows additional time for DNA testing motions for those whose judgement of conviction was final prior to September 1, 2000.	ENACTED
GA	HB 599	Thompson	Provides for post-conviction requests for DNA testing in all felony cases, provided that certain criteria are met.	See SB 119
GA	SB 119	Adelman	Provides for post-conviction requests for DNA testing in cases where a person is sentenced to death.	ENACTED
HI	HB 1005	Hamakawa	Requires county police to retain evidence that can be used for DNA analysis until all appeals of the case have been exhausted; or the defendant has completed serving the defendant's sentence, including any term of probation, whichever occurs later.	Died in Committee
HI	SB 404	Espero	Creates a sentence of death or life imprisonment without possibility of parole for certain convictions. Requires any DNA evidence to be preserved until exoneration or execution.	Died in Committee

HI	SB 405	Espero	Creates a sentence of death or life imprisonment without possibility of parole for certain convictions. Requires any DNA evidence to be preserved until exoneration or execution.	Died in Committee
HI	SB 1575	Slom	Creates a sentence of death or life imprisonment without possibility of parole for certain convictions. Requires any DNA evidence to be preserved until exoneration or execution.	Died in Committee
IL	HB 1281	Brosnahan	Allows for motions for additional DNA testing and subsequent comparisons to forensic files maintained on the DNA database [presumably when a cold hit has been made]. Such motions may be made prior to the original trial as well.	Needs Concurrence (See 2004 activity)
IL	HB 3362	Miller	Establishes the Capital Litigation Trust Fund to pay for testing of evidence that was not tested at the time of conviction in a capital first degree murder case because the technology was not available but in which new technology permits DNA testing and the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence	Died in Committee
IL	HB 3366	Miller	Allows for motions for additional DNA testing and subsequent comparisons to forensic files maintained on the DNA database [presumably when a cold hit has been made]. Such motions may be made prior to the original trial as well.	Died in Committee
IL	HB 3691	Daniels	In capital cases, the trial court shall allow post conviction DNA testing if the testing may produce evidence that significantly advances the defendant's claim of innocence but the evidence need not completely exonerate the defendant.	Died in Committee
IL	SB 1455	Dillard	Allows for motions for additional DNA testing and subsequent comparisons to forensic files maintained on the DNA database [presumably when a cold hit has been made]. Such motions may be made prior to the original trial as well.	Died in Committee
IN	SB 13	Bowser	If a person is sentenced to death and proceedings on the person's petition for postconviction relief have become final, but the person makes a prima facie showing that previously undisclosed evidence exists (such as DNA) and that it is reasonably likely that it would have affected the conviction or sentence, the supreme court shall consider the evidence.	ENACTED
LA	SB 119	Fields	Creates the Louisiana Death Sentence Study Commission. Study is to include "procedures to ensure that persons sentenced to death have access to forensic evidence and modern testing of such evidence, including DNA testing, when such testing could result in new evidence of innocence.	Died in Committee
LA	SB 522	Jones	Extends the period of time for filing post conviction DNA testing motions from 2005 to 2007.	ENACTED
MD	HB 575	Anderson	Clarifies the definition of scientific identification evidence; clarifies under what circumstances a court may order DNA testing; requires a court to make specified orders to law enforcement agencies when it orders DNA testing.	ENACTED
MA	HB 750	O'Flaherty	Provides for motions for post conviction DNA testing.	Died in Committee
MA	SB 178	Creem	Provides for motions for post conviction DNA testing.	Died in Committee
MS	HB 169	Fleming	Provides for post-conviction motions for DNA testing.	Died in Committee

MS	SB 2015	Jackson	Permits compensation if it is determined by a court that a person was wrongfully convicted based of new scientific evidence such as DNA analysis or newly discovered evidence. Compensation is capped at \$50,000	Died in Committee
MO	HB 732	Dixon	Allows any person found actually innocent after post conviction DNA testing to have a cause of action against the state for wrongful imprisonment.	Died in Committee
MO	SB 21	Bland	Provides for motions for post conviction DNA testing. Identity must have been an issue at the trial.	Died in Committee
MT	HB 77	Jent	Provides a procedure for post conviction DNA testing if the inmate pled not guilty. Requires the state to preserve scientific identification evidence that is obtained in such cases.	ENACTED
MT	SB 183	Bohlinger	Provides for educational aid for certain persons exonerated of a crime by postconviction DNA testing -- includes state aid for tuition, fees, books, board, and room.	ENACTED
NE	LB 528	Baker	Alters current post conviction testing requirements to add that the testing must be material to the defendant's innocence. Requires motions to be filed within 90 days after the discovery of new evidence. Only one petition for testing may be filed.	Died in Committee
NV	HB 16	Judiciary Committee	Provides for DNA analysis of certain evidence related to conviction of certain offenders sentenced to death.	ENACTED
NH	HB 640	Lasky	Permits a person to petition the court for post-conviction DNA testing of biological material under certain circumstances.	Pending House Vote (See 2004 activity)
NJ	HB 3068	Merkt	Provides for post conviction DNA testing motions for anyone convicted of murder. Identity must have been an issue at the trial, and the requestor has the burden of proof regarding chain of custody. For murder convictions with a death sentence, a court shall on its own motion order DNA testing on evidence that was not previously tested if identity was an issue at trial.	Committee
NM	SB 390	Sanchez	A person convicted of a criminal offense, who claims that DNA evidence will establish his innocence, may petition the district court to order the disclosure, preservation, production and testing of evidence that can be subjected to DNA testing.	ENACTED
NY	HB 1820	McEneny	Requires DNA evidence to be preserved for a minimum period of ten years after such evidence was used in a criminal investigation and conviction.	Died in Committee
NY	HB 7003	Wright	Authorizes performance of DNA testing of evidence as part of motion to vacate criminal conviction and set aside sentence regardless of date of conviction.	Passed Assembly. Died in Senate
NY	SB 4853	Volker	Authorizes performance of DNA testing of evidence as part of motion to vacate criminal conviction and set aside sentence regardless of date of conviction.	Died in Committee
OH	SB 11	Goodman	Establishes a mechanism for the DNA testing of certain inmates serving a prison term for a felony or under a sentence of death.	ENACTED
OR	HB 3365	Judiciary Committee	Removes requirements from current post conviction testing laws that petitioners must show that identity was an issue at trial.	Died in Committee
SC	HB 4068	Neal	Innocence Protection Act – Provides for post conviction DNA testing motions, requires preservation of biological material secured in connection with a criminal case.	Died in Committee

TN	HB 409	Briley	“Capital Punishment Equal Protection Act.” In death penalty cases, the district attorney general must have appropriate DNA testing to be performed on all items of physical evidence for which there is reason to believe that the results of such testing will be relevant to determining the guilt or innocence of the defendant.	Died in Committee
TN	HB 1654	Briley	Requires inmates to be notified prior to the destruction of biological evidence. Inmates have 180 days to file a motion or request a hearing for post conviction DNA testing, after which the evidence may be destroyed.	Committee Hearing on 4/30
TN	SB 441	Cohen	“Capital Punishment Equal Protection Act.” In death penalty cases, the district attorney general must have appropriate DNA testing to be performed on all items of physical evidence for which there is reason to believe that the results of such testing will be relevant to determining the guilt or innocence of the defendant.	Died in Committee
TN	SB 1738	Briley	Requires inmates to be notified prior to the destruction of biological evidence. Inmates have 180 days to file a motion or request a hearing for post conviction DNA testing, after which the evidence may be destroyed.	Died in Committee
TX	HB 866	Naishtat	Creates a commission to study capital punishment in Texas. Requires a study of the ability of new technologies such as DNA testing to increase that certainty	Died in Committee
TX	HB 1011	Hochberg	Current law allows post conviction testing if inmates can show “a reasonable probability exists that the person would not have been convicted.” This bill removes the term “reasonable probability.”	ENACTED
TX	HB 2704	Bailey	Any post-conviction review of DNA laboratory evidence in a criminal case, requested by the prosecution, shall be under the supervision of the Director, and the Director shall employ a third-party consultant(s).	Died in House.
TX	HJR 6	Wilson	Proposes a constitutional amendment establishing a moratorium in death penalty cases in which analyses performed by a crime laboratory operated by the City of Houston Police Department were admitted into evidence.	Died in Committee
TX	SB 444	Shapleigh	Creates a commission to study capital punishment in Texas. Requires a study of the ability of new technologies such as DNA testing to increase that certainty	Died in Committee
TX	SB 543	Duncan	Current law allows post conviction testing if inmates can show “a reasonable probability exists that the person would not have been convicted.” This bill removes the term “reasonable probability.”	See HB 1011
TX	SB 1814		Any post-conviction review of DNA laboratory evidence in a criminal case, requested by the prosecution, shall be under the supervision of the Director, and the Director shall employ a third-party consultant(s).	Died in Committee
TX	SCR 30	Ellis	Memorializing Congress to request that U.S. Department of Justice investigate the Houston Police Department Crime Laboratory and review past criminal cases.	Died in Committee
VA	HB 1859	O'Bannon	Provides for educational aid for certain persons exonerated of a crime.	Died in Committee
VA	HB 1912	Almand	Allows a convicted and incarcerated individual to petition the Supreme Court for a writ of actual innocence based upon any new evidence, not just DNA.	Died in Committee

VA	HB 2662	Christian	Provides \$1 million in relief to Earl Washington, Jr., who was incarcerated for more than 16 years for crimes that DNA testing proved he did not commit. Of the amount awarded, \$550,000 is payable over 10 years through an annuity.	Died in Committee
VA	SB 705	Marsh	Allows a convicted and incarcerated individual to petition the Supreme Court for a writ of actual innocence based upon any new nontestimonial evidence, not just DNA.	Passed Senate. Failed in House
VA	SB 863	Lambert	Provides \$1.5 million in relief for Marvin Lamont Anderson, who was incarcerated for fourteen years for a crime that DNA testing proved he did not commit.	ENACTED
WA	HB 1391	Kagi	Adjusts procedures for postconviction DNA testing – requests for testing must be submitted to the public defender who will transmit them to the prosecutor.	ENACTED
WA	SB 5723	Haugen	Adjusts procedures for postconviction DNA testing – requests for testing must be submitted to the public defender who will transmit them to the prosecutor.	See HB 1391
WV	HB 2710	Stemple	Provides for post conviction DNA testing in death penalty cases.	Died in Committee
WV	HB 3098	Fleischauer	Provides a right to DNA testing for imprisoned felons and requires certain physical evidence be preserved	Died in Committee
FD	HR 3214	Sensenbrenner	Advancing Justice Through DNA Technology. Establishes rules and procedures governing applications for post-conviction DNA testing by Federal prison inmates. Authorizes \$500 million (\$100 million per year through 2009) to improving State systems for providing competent legal services in death penalty cases. States applying for this grant money must produce a long-term strategy and implementation plan for improving the quality of legal representation for poor defendants in capital cases and the quality of trial-level prosecution. Provides \$25 million over five years to defray the costs of post-conviction DNA testing, and provides bonus grants to States that have adopted adequate procedures for providing post-conviction DNA testing and preserving biological evidence. Strengthens prohibition on destruction of biological evidence in a Federal criminal case while a defendant remains incarcerated.	Passed House. (See 2004 for activity)
FD	SB 132	Feingold	Places a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty. The Commission is to study procedures to ensure that persons sentenced to death have access to forensic evidence and modern testing of forensic evidence, including DNA testing, when modern testing could result in new evidence of innocence.	Died in Committee
FD	SB 1828	Hatch	Advancing Justice Through DNA Technology. See summary of HR 3214.	Died in Committee