

2004 Post Conviction DNA Legislation
Prepared by Smith Alling Lane on behalf of Applied Biosystems
(As of December 2004)

ST	Bill #	Sponsor	Summary	Status
AL	SB 95	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
CA	SB 1700	Burton	Authorizes a defendant to petition the court for an order- comparing a valid forensic identification profile that excludes the defendant, victim, and other known persons, <i>against DNA</i> and forensic identification databank profile.	Died in Committee
FL	SB 44	Villalobos	Extends the period following sentencing during which a petition may be filed or considered by the court to order the testing of criminal DNA evidence	ENACTED
GA	HB 599	Thompson	Provides for postconviction DNA testing of evidence in certain criminal cases. Includes provisions for procedures, limitations, conditions, and standards for testing of evidence.	Passed House. Died in Senate.
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.	Failed Concurrence
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	HB 4261	Bellock	Permits a defendant to make a motion for fingerprint or forensic DNA testing on evidence that was secured in relation to the trial that resulted in his or her conviction, but that was not subject to testing because the technology for testing was not available at the time of trial.	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
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.	Study Ordered
MS	HB 235	Fleming	Provides for post-conviction motions for DNA testing.	Died in Committee
MS	SB 951	Clarke	Any convicted offender may request the use of dna identification analysis to prove his innocence	Died in Committee
MS	SB 2200	Jackson	Provides civil compensation for an erroneous conviction. Criteria for compensation includes new scientific evidence that exonerates (such as DNA).	Died in Committee
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
NE	LB 1085	Chambers	Alters current post conviction DNA law to say intent of legislature is also to allow convicts to show their conviction was obtained with unreliable evidence, rather than just that innocence will be established.	Died in Committee
NH	HB 640	Lasky	Permits a person to petition the court for post-conviction DNA testing of biological material under certain circumstances.	ENACTED
NJ	HB 2195	Merkt	Provides for DNA testing on certain evidence in murder cases and requires DNA testing if death sentence imposed if identity was at issue.	Carried Over to 2005
NJ	SB 601	Allen	Provides for DNA testing on certain evidence in murder cases and requires DNA testing if death sentence imposed if identity was at issue.	Carried Over to 2005
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	HB 9356	Kolb	Expands offender DNA database to include felony and misdemeanor convictions. Eliminates statute of limitations for certain sex offense. Includes post conviction DNA testing provisions.	Died in Committee
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
NY	SB 5554	Skelos	Expands offender DNA database to include felony and misdemeanor convictions. Eliminates statute of limitations for certain sex offense. Includes post conviction DNA testing provisions.	Passed Senate. Died in Assembly

RI	HB 7097	Voccola	Requires that in all felony prosecutions, post-trial and post-conviction proceedings, the proponent of DNA evidence, whether prosecution or defense, shall provide to the adverse party all relevant material related to DNA evidence.	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.	Died in Committee
TN	HB 2722	DeBerry	Provides compensation of \$100 per day for every day of incarceration for Clark McMillan, who was exonerated by DNA evidence of a crime he was convicted of in 1980.	Died in Committee
TN	HB 2859	DeBerry	Provides compensation of \$100 per day for every day of incarceration for Clark McMillan, who was exonerated by DNA evidence of a crime he was convicted of in 1980.	ENACTED
TN	HB 3454	McMillan	Removes process for state payment of expenses associated with DNA testing of post-conviction petitioners from the criminal injuries compensation fund	See SB 3008
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
TN	SB 2375	Cohen	Provides compensation of \$100 per day for every day of incarceration for Clark McMillan, who was exonerated by DNA evidence of a crime he was convicted of in 1980.	See HB 2859
TN	SB 3008	Burks	Removes process for state payment of expenses associated with DNA testing of post-conviction petitioners from the criminal injuries compensation fund	ENACTED
VA	HB 848	Jones	Provides compensation of \$3 million to Julius Earl Ruffin, who was exonerated through DNA and granted pardon.	ENACTED
VA	SB 234	Lambert	Provides compensation of \$3 million to Julius Earl Ruffin, who was exonerated through DNA and granted pardon.	See HB 848
WA	HB 2872	Darneille	Allows convicted felons to directly petition the court for post conviction DNA testing rather than submit requests to the prosecutor and attorney general's offices. Sets new standards for retaining biological material. Removes the December 31, 2004 termination date.	Died in Committee

WA	SB 6447	Stevens	Allows convicted felons to directly petition the court for post conviction DNA testing rather than submit requests to the prosecutor and attorney general's offices. Sets new standards for retaining biological material. Removes the December 31, 2004 termination date.	Died in Committee
WV	HB 3098	Flieschauer	Provides a right to DNA testing for imprisoned felons and requiring certain physical evidence be preserved.	See HB 4156
WV	HB 4156	Webster	Expands offender DNA database to include all convicted felons. Provides a right to post conviction DNA testing.	ENACTED
WV	SB 312	Kessler	Expands offender DNA database to include all convicted felons. Provides a right to post conviction DNA testing.	See HB 4156
US	HR 5107	Sensenbrenner	Enacts the Innocence Protection Act of 2004 - Sets forth conditions under which a Federal prisoner asserting innocence may obtain post-conviction DNA testing of specific evidence and, if test results would establish the applicant's innocence, a new trial or resentencing. Requires the preservation of biological evidence if a defendant is under a sentence of imprisonment. Directs the Attorney General to: (1) establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program; and (2) award grants to improve the quality of legal representation of indigent defendants, and the ability of prosecutors to represent the public, in State capital cases.	ENACTED