



Legislators seek right match between DNA technology, laws

By *Tim Anderson*

Wisconsin authorities had the genetic profiles, but not the suspects in a handful of sexual assault cases from the mid-1990s — and time was running out. Faced with a statute of limitations deadline, prosecutors decided to file a series of unique, “John Doe” arrest warrants.

The assailants, known only by the evidence left at the crime scenes, would be charged if genetic matches were ever found. The warrants are undoubtedly an inventive way of trying to keep rape cases open for prosecution, but much less certain is whether they would survive court challenges.

A bill making its way through the Wisconsin Legislature attempts to remove any legal doubts. The legislation — which passed the Assembly in June — calls for an exemption to the six-year statute of limitations when DNA evidence is found linking a sex offender to a crime.

The measure also would extend the state’s current one-year limit on post-conviction relief and give prisoners access to DNA evidence that might prove their innocence.

“The technology is so rock solid, so unquestionable,” says Wisconsin Rep. Scott Walker, a Republican from Wauwatosa. “There should not be a limit on prosecution in cases where DNA evidence can be used. And if it’s solid enough to prove someone’s guilt beyond six years, the same is true for someone’s innocence.”

Earlier this year, the Nebraska Unicameral approved a bill allowing convicted individuals to seek a new trial based on new DNA evidence. It also allows a person to seek DNA testing, which the state must pay for if the individual is indigent.

“There has been so much talk about this issue nationally that it really did not take much convincing of fellow legislators,” says Nebraska Sen. Ernie Chambers of Omaha, who sponsored the bill. “Even some of our most conservative members said, ‘The cost shouldn’t matter, because you can’t put a price on innocence and justice.’”

Measures like the ones in Nebraska and Wisconsin reflect the potential that lawmakers believe DNA technology has to improve the criminal justice system. While exonerating innocent individuals convicted of heinous crimes, genetic testing also helps prosecutors break unsolved cases.

In 2000, seven years after a college student was raped in Milwaukee, Wisconsin prosecutors were able to link a Texas prisoner to the crime through a national DNA databank. (The statute of limitations had not run out because the perpetrator spent time after the crime outside the state.)

Many states, including Wisconsin, have substantially increased the number of samples in their DNA databanks while also connecting to the national indexing system. As the collection increases, so do the chances of finding genetic

matches like the ones Wisconsin prosecutors are searching for in their John Doe warrants.

“There’s incredible potential, particularly with sexual assault cases, because the profile of these individuals is of a repeat offender,” Walker says.

Every state now has a law requiring the collection of DNA from convicted sex offenders, and most take genetic samples for other serious crimes. Legislation in Michigan this year would make it the eighth state to require DNA samples of all felons.

“We need to expand the database because, unfortunately, many felons will go on to commit additional, sometimes violent crimes down the road,” says Michigan Rep. Virg Bernero, a Democrat from Lansing.

For all the promise of DNA databanks, though, there are potential stumbling blocks. After the

Wisconsin Legislature passed a law in 1999 requiring the collection of DNA from all exiting felons, implementation was stymied due to unresolved questions between state and county officials over who should gather the samples.

Other states and local law enforcement officials have reported problems entering samples into

DNA databases in a timely fashion due to a lack of funding. Finally, as plans move forward to enlarge state and national DNA databases, concerns about privacy will intensify.

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Will genetic testing eventually be required for anyone who is arrested? And exactly how can the DNA samples be used by the state and federal government?

“There is going to have to be a bigger debate in the future about how far you go with this,” Walker says. “Right now, though, we’re going to have a big enough task just getting every person convicted into this database.”

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The Midwestern Higher Education Commission, the governing board of the Midwestern Higher Education Compact, invites nominations and applications for a successor to its First President, David Murphy, who has announced plans to step down in 2002. The Compact is an organization of 10 member states: Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio and Wisconsin. It is dedicated to advancing higher education through interstate cooperation, resource sharing and service to the 853 public and private non-profit colleges, universities, community colleges and technical colleges located in its member states. The Compact sponsors a variety of collaborative programs to facilitate administrative cost savings; policy research and analysis; student access; completion and affordability; technology advancement; and educational innovations.

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The Commission requests that inquiries and nominations be directed to:

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