

Use of Forensic DNA Database Information for Medical or Genetic Research¹

Seth Axelrad, ASLME Research Assistant

The state legislatures in all 50 states established DNA databases in order to aid and enhance law enforcement. Alabama's statute declares, "[T]he creation and establishment of a statewide DNA database is the most reasonable and certain method or means to rapidly identify repeat or habitually dangerous criminals."² The state statutes also recognize, however, that the criminals' DNA information can be used for other purposes, including for medical and genetic research.

Eight states—Indiana, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, and Wyoming—expressly prohibit the use of the DNA database to obtain information on human physical traits, predisposition to disease, or medical or genetic disorders. Alabama, on the other hand, explicitly authorizes the use of DNA information for medical research, and is the only state to do so.³ Michigan authorizes use of anonymous database information for an "academic" or "research" purpose, although it is unclear from the statutory language whether the state legislature meant to include medical or genetic research as an authorized use of database information.⁴ The remaining 40 state statutes are either silent on this issue (4), or they neither expressly authorize nor prohibit such research (36).

Thus, with regard to most state DNA database statutes, the issue of the use of database information for medical or genetic research is not directly addressed. An indirect answer to the question of research uses may be gleaned from those statutes which provide a list of "authorized uses." For example, Alaska limits use of the DNA database "only for (1) providing DNA or other blood grouping tests for identification analysis; (2) criminal investigations, prosecutions, and identification analysis; (3) statistical blind analysis; (4) improving the operation of the system; or (5) exoneration of the innocent."⁵ This exclusive list does not include medical or genetic research and, presumably, such research uses would violate the statute. Therefore, by examining the "authorized uses" provisions of the statutes, one may get a clearer picture of how most US states regulate research use of database information. Furthermore, where the authorized uses apparently exclude research use, the states also may deter the dissemination of DNA information to researchers by criminalizing the disclosure of database information to unauthorized persons. Thirty states currently criminalize such disclosures.⁶

For additional information on the state DNA database statutes, please visit Survey of State DNA Database Statutes and other information on DNA Fingerprinting and Civil Liberties at www.aslme.org.

¹ Funding for this research was provided to ASLME through the National Human Genome Research Institute, NIH, Grant No. 1 R01HG002836-01.

² See Ala. Code § 36-18-20(g).

³ See Ala. Code §§ 36-18-20 and 36-18-31.

⁴ See Mich. Comp. Laws Ann. § 28.176.

⁵ See Alaska Stat. § 44.41.035(f).

⁶ Thirty states criminalize such disclosure. See Survey of State DNA Database Statutes online at www.aslme.org.