

N.C. General Assembly amends controversial discovery law

By MICHAEL TOOLE
Staff Writer

RALEIGH — The General Assembly brought to a quick end a month-long debate Friday by amending the controversial discovery law that district attorneys had claimed would reveal the identity of confidential informants.

Taking only five hours in a special session called by Gov. Jim Hunt, legislators passed a compromise bill developed early last week by House and Senate committees.

The amended law, which now satisfies prosecutors as well as the defense attorneys who pushed for the original measure, prompted quick praise from Hunt.

"The changes in the discovery law will protect the identities of confidential informants," Hunt said in a prepared statement. "What was a very real threat to effective law enforcement has been removed, and the legitimate rights of the accused have been preserved."

Some lawmakers questioned how real the threat actually was, but most agreed the special one-day session, estimated to cost taxpayers about \$19,500,

was necessary to eliminate the public fear and misperception that had developed since the discovery law's ratification July 14.

The law required the prosecution to give the defense the substance of statements in its possession that defendants made to anyone. Defense attorneys supported the law over a previous one which required the prosecution to reveal only those statements that helped to prove a defendant innocent, or those that were made to law enforcement officers and that prosecutors planned to use in court.

Prosecutors were concerned, however, that defendants might be able to deduce the identity of confidential informants by remembering to whom they made statements.

Sources would dry up and law enforcement would be hindered because informants would be afraid of being hurt if their identities were revealed, said law enforcement officials, who were especially worried about the law's effects in drug-trafficking investigations.

Actually, the law allowed district attorneys to receive court orders that would protect the identity of informants if there were any evidence that the

defendant would threaten them.

"I think we've all been worked into a frenzy," said Rep. Dan Blue, D-Wake, who sponsored the broader discovery law at the request of the N.C. Academy of Trial Lawyers. "All of you legislators should feel good about the action you took in July."

"I think it's fair to say that an objective review of the statutes in other states indicates that most of the concerns that have been raised are hollow concerns," Blue said. He referred to an Institute of Government report of states that have similar discovery laws but list no problems with law enforcement.

Rep. Al Adams, D-Wake, chairman of the subcommittee that worked out the compromise, agreed with Blue but said changes were necessary to correct public perception, if not the actual content of the law.

"If informants think they are going to be killed because of what they read in the newspapers or hear on television, then we need to allay those fears to prevent deterioration of law enforcement in North Carolina," Adams said during house debate.

Other legislators agreed as the House took only an hour and a half to approve changes in the law, 108-1. The Senate passed the bill 46-0 later Friday afternoon after it had been sent briefly to a special Ways and Means Committee.

The amended law allows prosecutors to withhold statements that do not help prove a defendant's innocence or that will not be used in court. Other statements in the state's possession must be released no later than Wednesday prior to the week of the trial.

The amendment also states that judges may block disclosure for such reasons as "physical threat, intimidation or bribery."

Rep. Robert Brawley, R-Iredell, who cast the only dissenting vote, objected to a provision that made violations of the discovery law grounds for mistrial or dismissal of charges.

Brawley proposed an amendment that would prevent judges from dismissing cases on these grounds, but it was voted down 95-14.

Public furor over the law was strong but began only after the General Assembly ended its regular session July 22. When district attorneys began to try cases in federal courts, Hunt decided Wednes-

day to call the special session to settle the matter—giving lawmakers only two days to return to Raleigh.

Supposedly, district attorneys were trying to circumvent the new law, said Rep. Billy Watkins, D-Granville. But the real reason prosecutors wanted to try their cases in federal courts was to have access to investigative grand juries that are not available in state courts, he said.

"We're sitting here today because the public of North Carolina was misled," Watkins said.

On the other side, opponents had speculated that the passage of the measure in July had been influenced by the indictments of Lt. Gov. Jimmy Green and Sen. R.C. Soles, D-Columbus.

But Rep. Joe Hackney, D-Orange, said in a telephone interview Friday that those bribery charges "had no influence on the House side."

"I can't say what happened in the Senate," Hackney said, "but it was originated on the House side and passed virtually unchanged in the Senate."

In the special session, the General Assembly took action on proposed changes in the law governing the sale of alcohol to underage persons and voted on several small administrative matters.

All in UNC system bear tuition increase

By MICHAEL TOOLE
Staff Writer

If misery loves company, then UNC students should feel heartened that they will not be alone in feeling the pinch to their pocketbooks this fall.

They join approximately 84,000 other students who must shell out more money to pay the cost of attending one of the UNC system's 16 institutions.

Students who are residents of North Carolina had a 10 percent increase in tuition while out-of-state students face a 26 percent hike over last year's cost.

For students at UNC-CH and the system's larger institutions such as N.C. State University and UNC-Greensboro, the increases mean, in actual dollar amounts, a cost of \$480 per year for in-state students and \$2,842 per year for non-residents of the state. Last year, the rates were \$240 for in-state students and \$2,260 for out-of-state.

The increases were necessary because of action taken by the N.C. General Assembly when determining the 1983-1984 state budget, said Hugh S. Buchanan Jr., associate vice president of finance for the UNC system.

Buchanan said the Legislature included in the N.C. budget a provision requiring the UNC Board of Governors to raise \$10 million in tuition receipts. That amount would round out the \$33.8 million appropriation made by the General Assembly to the BOG for expansion and improvement of current operations.

A second provision in the budget stipulated that tuition for out-of-state students should be comparable to the rates other states charge non-residents, Buchanan said. "It was the first time they (the General Assembly) told us that."

By increasing non-resident tuition to the national average, the BOG will receive \$6.3 million of the required \$10 million from

out-of-state students while those in-state will pay \$3.7 million, marking the first time non-residents contribute more to the budget than students from North Carolina, Buchanan said.

This year, the General Assembly operated on an automatic 1 percent reduction of budget recommendations made by Gov. Jim Hunt and the Advisory Budget Committee, according to a report submitted to the BOG by UNC President William C. Friday.

The report shows that most requests made by the BOG were not met totally even after the 1 percent cut. But the UNC system still received more money than it did in the previous budget, said Bruce Harrington, state budget administrator for education.

"It's human nature," Buchanan said of people's tendency to think in terms of cuts. "People seem to focus on what they didn't get instead of what they did."

Harrington said UNC-CH got \$163 million compared to the \$143 it had last year.

"The fact that you have more money overall does not mean you have more money for supplies or other things, though," Harrington said.

Part of the reason is that \$16.2 million that the General Assembly appropriated to the UNC system this year is designated for salary increases, Harrington said. Last year, no money was appropriated for salary hikes.

The appropriation will provide funds for salary increases averaging 5 percent for faculty and staff. But the Legislature denied requests for \$2.5 million to be used in restoring positions cut by the previous budget, according to Friday's report.

While tuition went up at all the schools in the UNC system, the BOG did not raise student fees on most campuses.

Chapel Hill students, however, had to pay increased fees of \$142.75 per semester — up \$10 from last year. The increase is due to an added debt retirement fee that will pay for renovations to Lenoir Hall's dining service facilities, Buchanan said.

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Artificial heart may be improved

The Associated Press

SALT LAKE CITY — The surgeon who implanted the first permanent artificial heart is seeking rule changes that would allow him to give the next plastic heart, to someone healthier than Barney Clark was.

Dr. William DeVries also wants permission to use a battery-powered system the size of a camera bag to power the artificial heart, said John Dwan, a representative for the University of Utah Medical Center.

DeVries is the only surgeon authorized by the U.S. Food and Drug Administration to implant an artificial heart in a human being.

Clark, a Seattle-area dentist, lived for 112 days on an artificial heart. He died March 23.

Clark suffered a string of complications after the implant, including severe lung and kidney disease, pneumonia, a broken heart valve, ruptured air sacs in his lungs, seizures, confusion and nose bleeds.

His doctors have said he was only days from death at the time of the implant and would have had a better chance of survival if the implant had been done sooner.

Rule changes must be approved by the university's 16-member Institutional Review Board, which approves all research involving human experimentation at the school. The board's actions must be ap-

proved by the FDA.

The board's guidelines for Clark stipulated that, prior to the implant, he meet the New York Heart Association's Class 4 rating for heart patients for at least eight weeks. Patients in that category show significant symptoms of heart disease.

DeVries wants to drop the eight-week requirement, Dwan said Wednesday. The surgeon also wants to loosen the protocol in other ways, but Dwan declined to say how.

DeVries also wants to use a heart with stronger valves and is seeking permission to use a small battery-operated system to power the heart. Clark's air-powered heart was connected by large tubes to a 375-pound compressor on wheels.

DeVries has said he hopes to choose next a recipient who doesn't suffer the chronic emphysema that impeded Clark's recovery.

Dwan, who has seen DeVries' 100-page working draft, said it's uncertain how long it will take the surgeon to finish the protocol. The Institutional Review Board could announce its decision within 30 days of submission, said its chairman, Dr. John Bosso.

"I don't anticipate it being a long process," Bosso said.

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