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## Working to end sexual violence in Maryland

P.O. Box 8782  
Silver Spring, MD 20907  
Phone: 301-565-2277  
Fax: 301-565-3619

For more information contact:  
Lisae C. Jordan, Esquire

[www.mcasa.org](http://www.mcasa.org)

### **2021 Legislative Priorities – Final Report**

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes all of the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland.

***The Maryland Coalition Against Sexual Assault (MCASA) supports legislation that promotes justice for survivors of sexual violence, accountability for offenders, and protection for the general public.*** The 2021 legislative session included tremendous challenges as the General Assembly worked to keep members, staff, and the public safe from COVID-19, address the budgetary fall-out from the pandemic, and took action to make meaningful reforms to address racial injustice. MCASA continued to advocate for the needs of sexual assault survivors and the programs that serve them. We provided testimony via Zoom, communicated with policymakers on screens and via text, and worked with our allies to ensure the voices of survivors were heard. While there were some disappointments, we also continued to help make needed change to our laws and are grateful to everyone who worked to make this happen.

### **MCASA's 2021 Legislative Priorities**

#### **Top Priorities**

##### **Rape Crisis Center Funding**

MCASA supports full funding of rape crisis center services and monitors the budget process and individual funding bills. Sexual assault survivors report their trauma is amplified by quarantines, economic pressures, and fears for the future. Programs are stretched ever thinner as they try to do more and more and are faced with increasing bureaucracy that diminish resources. MCASA is immensely grateful to the legislators who listened to concerns and imposed strong guidance to help keep Victim of Crime Act (VOCA) funding

stable and predictable as the pandemic continues. A copy of budget language addressing this issue is attached to this report. The amazing dedication of budget committee leaders and membership helped make this happen. **Chairman Guy Guzzone and Senator Cory McCray in the Senate and Vice Chair Mark Chang, Delegates Keith Haynes, Kirill Reznik, Mike McKay, Gabriel Acevero, Chair Maggie McIntosh all were leaders in these efforts.**

It is critical that we maintain support for the core services that sexual assault survivors need. This work is far from over. MCASA will continue to advocate at the federal level to enact the VOCA-fix legislation and **urge the Hogan Administration** to work collaboratively with the field and allocate additional COVID relief funds to victim services and to use state general funds to fill in any gaps in the coming years.

### **Maryland Legal Services Corporation Funding – [SB413/H514](#) -- PASSED HB31 – Died on House Floor**

The Maryland Legal Services Corporation, the state's largest funder of civil legal aid, faced a funding crisis as a result of the COVID-19 pandemic. MLSC grants support legal services at non-profits, including those helping victims of sexual assault and domestic violence across Maryland. These include the Sexual Assault Legal Institute (SALI) serving adults and children statewide, the Life Crisis Center on the Lower Eastern Shore, the Southern Maryland Center for Family Advocacy, Citizens Assisting and Sheltering the Abused in Washington County, Heartly House in Frederick, HopeWorks in Howard, Sexual Assault/Spousal Abuse Resource Center (SARC) in Harford County, and others. MCASA supported several efforts to restore legal services funding.

The bills to allocate additional funding from Maryland's Abandoned Property fund, SB413/HB514 passed and will provide critical long term stability for legal services providers. **Thank you to Senator Guy Guzzone and Delegate Ben Barnes** for their amazing and consistent leadership. They were the lead sponsors on this legislation and are both consistently strong advocates for survivors of sexual violence.

Bills to raise filing fees and provide dedicated support for legal services in landlord-tenant matters were contained in HB31, sponsored by the Chair of the House Judiciary Committee, **Luke Clippinger, a long time advocate for policies to help sexual assault survivors.** Despite efforts to find a compromise, this bill ultimately died on the House floor after landlords objected to provisions prohibiting passing through costs of filing fees to tenants and renters insisted that costs never be passed through. It was distressing to see this important legislation fail at a time when so many Marylanders need legal services and programs need more support, not less.

### **Marriage Should Not Be a Defense to Sex Crimes – Love is No Defense Act- HB147/SB250 – Failed in Conference**

Maryland allows marriage to be a defense to some sex crimes. HB147/SB250 would have repealed this archaic part of the code. The House bill once again sailed through the House Judiciary Committee and House of Delegates. However, the bills failed after a troubling

amendment was added in the Senate Judicial Proceedings Committee. This amendment would have redefined “sexual contact” and created different standards for consent to sexual touching for people in relationships. MCASA believes strongly that it is never OK to say that people in relationships have less protections against sexual assault. **We especially appreciate the efforts of Senator Susan Lee, Delegate Charlotte Crutchfield, and Delegate Emily Shetty for standing up for the principle that our sex crimes laws should not be weaker for people who are married or in relationships. Their strong and unyielding support for survivors of sexual assault is appreciated.**

Lead sponsors: Delegate Charlotte Crutchfield and Senators Susan Lee and Jeff Waldstreicher.

### **Prohibition on Sexual Activity by Law Enforcement During the Course of Investigations or Assistance – Police Reform – [HB411/SB43](#) – PASSED**

Current law prohibits law enforcement from sexual activity with people in custody or who are incarcerated. This bill will extend this and law enforcement will be prohibited from sexual activity with people they are investigating or requesting assistance/responding to the officer (such as during a traffic stop). MCASA views this as an important piece of police reform. Women of color and poor women face exploitation and higher rates of mistreatment by law enforcement, and it is critical that reform efforts include ending racism experienced by victims. The bill passed with amendments that provide an exception if the officer had a prior legal relationship with the victim AND did not use their office or act under color of law when seeking consent. Lead sponsors: Delegate Nicole Williams and Senators Sarah Elfreth and Shelly Hettleman.

### **Sexting – [HB180](#) -- PASSED**

This bill was filed to address the *In re: SK* opinion allowing a 16 year old girl to be prosecuted for sending a picture of herself to two friends. It balances the need to prevent creation and distribution of child pornography, the need to protect minors from being coerced into sending images of themselves, and the common sense goal of preventing minors from being criminally prosecuted for what has become a common practice. Thank you to Delegate Emily Shetty for leading the work group on this complex issue. Lead sponsor: Delegate Luke Clippinger

### **Body Cameras and Victim Privacy – SB690 – Died in Committee – Passed Senate, NO VOTE in House Judiciary**

Body-worn digital recordings can include images of survivors following some of the most traumatic and difficult times in their lives and care should be taken to ensure the justice system does not add to the trauma by publically disclosing body camera footage. At the same time, recordings can provide important information about how victims are treated. This bill balances these concerns and addresses a gap in the current public information act law. Lead Sponsor: Senator Charles Sydnor.

### **Sexual Harassment – Definition – SB834 – Died on House Floor**

This bill clarifies the definition of harassment and sexual harassment in employment discrimination cases to eliminate the requirement that conduct be severe or pervasive and

to require that courts consider the totality of the circumstances when determining whether something is harassment. Sadly, this important bill almost made it, passing the Senate and out of the Economic Matters Committee, but then died on the House Floor before it could be voted on *sine die*. Thanks to lead sponsor Chair Will Smith for introducing it and to Economic Matters Vice Chair Kathleen Dumais for shepherding it through Committee. Lead Sponsor: Senator Will Smith.

## **Additional Priorities**

### **Civil Justice**

#### **Workplace Violence – Peace Orders – [HB289/SB105](#) -- PASSED**

This bill will give employers the ability to seek a peace order on behalf of an employee. MCASA worked with our strong ally, the Women’s Law Center of Maryland, to develop language to ensure employees will not face retaliation if they refused to participate in the proceedings. We appreciate our partnership with Jen Witten and the Maryland Hospital Association to help get this passed. Lead Sponsors: Delegate Vanessa Atterbeary and Senator Charles Sydnor.

#### **Name Changes – Prohibition of Publishing – [HB39/HB581](#) -- PASSED**

A bill to eliminate publication of name change requests upon motion of a party. MCASA has handled several name changes for children of sex offenders, and for survivors of domestic violence and their children. Lead sponsors: Delegate Emily Shetty and Senator Shelly Hettleman.

#### **Sexual Abuse and Harassment & Mental Health Facilities – [HB881/SB815](#) -- PASSED**

Requiring reporting of all complaints of sexual abuse and sexual harassment at residential mental health facilities within 24 hours to: the administration and the Office of Health Care Quality, child protective services (if a minor is involved), and the state protection and advocacy program. Also requiring policies and written protection plans for patients at risk of being victim or perpetrator of abuse. Lead sponsors: Delegate Geraldine Valentino-Smith and Senator Kathy Klausmeier.

#### **Statute of Limitations – Civil Child Sexual Abuse – HB263/SB134 – No Vote in Senate Judicial Proceedings; Withdrawn in House**

This bill would expand or eliminate the statute of limitations in civil suits based on child sexual abuse. Lead sponsors: Delegate CT Wilson and Senator Shelly Hettleman.

#### **Charitable Immunity – Sexual Assault – HB55 – No Vote in Judiciary Committee**

A bill to eliminate charitable immunity in cases involving sexual assault and abuse. Lead sponsor: Delegate Brian Crosby.

### **SLAPP Suits – HB308/SB162 - Died in Committee – Passed House, NO VOTE in Senate Judicial Proceedings Committee**

This bill clarifies and supports the exercise of constitutional rights to petition and exercise free speech by amending the law regarding SLAPP Suits – Strategic Lawsuits Against Public Participation. Sexual assault survivors across the country are increasingly facing lawsuits brought to discourage exercising their rights in college sexual misconduct proceedings and some survivors encouraged to speak out about sexual violence by the #MeToo movement have also been met with lawsuits designed to silence them. While not all of these retaliatory suits will qualify as SLAPP suits, some would.

### **Criminal Justice and Procedure**

#### **Private Room - Report of Crime Against a Person -- [HB193/SB483](#) - PASSED**

This bill requires law enforcement to provide crime victims with a private room to report a crime against a person, including a report of a sex crime. Lead sponsor: Delegate Michele Guyton and Senator Shelly Hettleman.

#### **Indecent Exposure – [SB270](#) - PASSED**

This bill creates a crime of indecent exposure (previously this had been charged under disorderly conduct) and clarifies that this includes masturbating in public whether or not genitalia are exposed. Lead sponsor: Senators Jeff Waldstreicher and Malcolm Augustine.

#### **Indecent Exposure – HB1001 – No vote in Committee**

This bill would have created a law of indecent exposure with prurient and lascivious intent and placed those convicted on the sex offender registry. MCASA opposed unless amended out of concerns about placing “girls gone wild” (or boys gone wild) on the registry and the potential for misuse in sex trafficking cases. The sponsor collaborated and agreed to amendments to limit the statute to cases involving intentional exposure to children, but time during session ran out. Lead sponsor: Delegate Jesse Pippy.

#### **Statute of Limitations – Preventing or Interfering with Child Sexual Abuse Reporting – SB145 (Support with Amendment) – Died in Committee, Passed Senate, No Vote in Judiciary**

This bill would have changed the statute of limitations for the misdemeanor crime of preventing or interfering with a report of suspected child sexual abuse. Misdemeanors in Maryland are generally subject to a one year statute of limitations or as specified by statute. Felonies have no statute of limitations. MCASA agrees that this offense should have a longer statute of limitations because so many survivors of child sexual abuse do not disclose for many years. However, if the statute is expanded for this crime, we support making it a felony so that the other collateral consequences of a felony conviction apply (for example, felons are prohibited from possessing firearms). Lead sponsor: Senator Michael Hough.

### **Person in Position of Authority – HB223 – Died in Committee, No Vote**

A bill to help close the remaining loophole in Maryland's laws regarding persons in authority who sexually exploit children they have authority over. Statutory rape provisions protect younger children, child sexual abuse laws protect children during the time a child is actually in an adult's care or supervision, certain school employees are always prohibited from having sex with their students, and new laws on sextortion provide the ability to prosecute those using threats of emotional distress to coerce sexual activity. However, the law still has gaps that fail to protect teenagers from sexual exploitation by extra-curricular activity instructors, scout masters, school volunteers, and other adults in authority. This bill closes these remaining gaps, so that all teens are protected. Lead sponsor: Delegate Sara Love.

### **Survivors Seeking Criminal Justice – Explanation of Decision Not to Prosecute -- HB 270/SB555 – Died in Committee – Passed House, NO VOTE in Senate Judicial Proceedings**

Few sexual assault survivors seek help through the criminal justice system. When they do, State's Attorneys Offices do not always prosecute. This bill requires that, at the request of the victim, the prosecutor provide an explanation of this decision. Lead sponsors: Delegate Karen Lewis Young and Senator Ron Young.

### **Spousal Privilege – Exception for Marriage After Crime – HB268 – Died on Senate Floor**

A bill to eliminate spousal privilege if the crime occurred before the couple married. A case example includes a woman who was stabbed by her boyfriend. They married after he was charged with attempted murder and an invocation of spousal privilege prevented his prosecution. Lead sponsor: Delegate Robin Grammer.

### **Police Reform**

Within MCASA's areas of advocacy to end all forms of sexual violence, [we recognize](#) that Black and Brown women who are victims of these crimes receive less police protection, less interventions, fewer prosecutions of their assailant, and less assistance from family, friends, and their communities. Given what we know about the frequency of sexual assault, domestic violence, child abuse, and exploitation, suggesting that these disproportionate outcomes are not linked to institutional racism is both impossible and incredible. So while many of the provisions of Maryland's police reform did not fall directly within the scope of our mission, MCASA supported the overall effort and advocacy was also provided on some specific pieces of legislation, including HB671, regarding expanding access to information about sexual and other misconduct by police officers (**PASSED as part of SB178**). MCASA also views one of our top priorities, HB411/SB43, prohibiting law enforcement from having sex with people they are investigating or who have asked for help, as an important component of police reform.

**Lifetime Supervision of Sex Offenders, Crimes of Violence – SB333/HB531, HB896/SB268, see also SB264 – Did Not Pass**

Several bills were introduced to expand lifetime supervision to include cases involving older victims of sexual abuse of a minor. Current law provides for lifetime supervision if the victim was under 12. This is complicated by the range of cases that fall under the crime of sexual abuse of minor: cases can include offenders and victims close in age and where the offender was a person supervising the victim, such as an extracurricular instructor or babysitter. Clearly, these cases can be horrific abuses of power and control; some legislators had worries about cases that involved less concerning facts. The bills introduced were amended in various ways and MCASA continued to have concerns. Eliminating cases involving perpetrators under 21 could have the unintended consequence of excluding extremely dangerous offenders. On the other hand, imposing lifetime supervision in inappropriate cases would waste limited resources; the suggestion that offenders can petition to be removed from lifetime supervision may not resolve this issue since the standard to be removed from supervision is that the offender “no longer be a danger to others” and courts are unlikely to make this finding. We anticipate this issue will be back next session.

**Miscellaneous**

**Address Confidentiality Program – Additional Eligibility – [HB109](#) -- PASSED**

This merged the current domestic violence address confidentiality program and the human trafficking address confidentiality program and expanded eligibility to survivors of sexual assault, stalking, harassment or others in danger. Lead sponsor: Administration/Secretary of State.

**On-line Child Abuse Prevention Training – [HB9](#) -- PASSED**

A bill to require the Department of Human Services to post an on-line training on child abuse prevention. Last session, this bill passed the House but was not considered by the Senate Judicial Proceedings Committee as a result of the early *sine die*. In the midst of the pandemic and related restrictions, the need for online training is even greater. Lead sponsor: Delegate Emily Shetty.

**Training for Health Care Professionals – Child Abuse – HB701 – Passed House, Died in Judicial Proceedings**

Requiring certain state health care boards to provide information about courses health care professionals can take regarding child abuse, including child sexual abuse, and reporting requirements. Lead sponsor: Delegate Susan McComas.

**Custody Factors – Comprehensive Legislation (HB505), Cases involving Abuse (SB57/HB748) – Passed one chamber, not the other**

House Bill 505 is a comprehensive bill developed several years ago by the Custody Commission and includes strong protections for survivors of abuse. SB57/HB748 would clarify the process courts must follow in custody and visitation cases involving allegations of child abuse or domestic violence (including cases involving sexual assault or abuse).

Lead sponsors: Delegate Kathleen Dumais, Senator Susan Lee, and Delegate Vanessa Atterbeary.

**Unlawful Employment Practices - SB911 – Passed Senate, failed on House Floor**

A bill to increase the cap on damages in unlawful employment practices cases, and to increase recoverable backpay from 2 to 3 years. Lead sponsor: Senator Will Smith.

**Commission on Men and Fatherhood – SB807/HB1156 – OPPOSED – No vote**

Together with several of our partners in Annapolis, MCASA opposed this bill as unnecessary. Lead sponsors: Senator Johnny Ray Salling and Delegate Ric Metzgar.

**NIMBL - Micro Bridge Loans for Non-Profits – SB376 – Passed Senate, Died in Appropriations Committee**

A bill mandating an appropriation for funds for non-profits waiting for distribution of government grant funding. This program has been chronically underfunded. MCASA supported this bill, but noted that it would be preferable to require the State to distribute grant funds in a timely manner. Lead sponsor: Senator Cheryl Kagan.

**VOCA Administration – Continuity of Services -- Budget Language Enacted**

Budget Language mandates continuing VOCA grant and addresses grants administration. See [HB588](#), beginning at page 18. Appendix attached.

**Join MCASA to support legislative change and learn more about how you can help  
end sexual violence in Maryland  
Visit [mcasa.org](http://mcasa.org) and sign up for Legislative E-lets**



**Our doors are closed, but our programs are open  
Rape Crisis Centers can helping during the COVID 19 crisis**



**HOUSE BILL 588 (Budget FY22), beginning on page 18, regarding administration of Victim of Crime Act (VOCA) funds and regarding general grants administration**

Note that references to fiscal years are to state fiscal years, for example fiscal year 2020 is the period July 1, 2019-June 30, 2020.

GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES

Provided that 2 regular positions (PIN 020543 and PIN 087450) may only be funded for the purpose of reclassifying the positions for the purposes of addressing staffing deficiencies related to the oversight and auditing of grants.

Further provided that \$100,000 of the appropriation made for the purpose of grant expenditures may only be used to provide an operating grant to the Boys and Girls Clubs of Southern Maryland. Funds not expended for this purpose may not be transferred by budget amendment or otherwise to any other purpose and shall **be canceled or** revert to the General Fund.

ADMINISTRATIVE HEADQUARTERS

D21A01.01 Administrative Headquarters

Provided that no funding provided under the federal Victims of Crime Act (VOCA) provided through the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) may be awarded to state agencies, programs, or held in reserve until each victim services provider who received funding during fiscal 2020 or 2021 has been awarded funding at no less than the same level as fiscal 2020 to continue services to victims of crime during fiscal 2022. For the purposes of identifying a state agency or program, it is the intent of the budget

committees that higher education institutions, the Baltimore Police Department, and other quasi-state entities be excluded from that definition and be included in the category of non-State victim services providers.

Further provided that if funding under the VOCA is reduced, funding shall be awarded in the following manner:

- (1) victim services providers who received funding during fiscal 2020 or 2021 shall receive all available VOCA funds, and funding for each provider may only be reduced by the same percentage as other providers, unless a provider submits a grant request for a lower amount; and
- (2) in the event that funding is not available, each grant shall be reduced by the same percentage unless a provider has requested reduced funding. Non-State providers shall be fully funded prior to any award to a State agency and prior to the retention of reserve funds. If additional federal funding becomes available as a result of COVID-19 relief, changes in the federal VOCA allocations to states, or otherwise, such cuts shall be restored.

No VOCA funding may be awarded by GOCPYVS except in a manner that gives priority to continuing funding for

non-State victim services providers who received funding during fiscal 2020 or 2021 and have the capacity to continue to provide services to victims.

Further provided that \$500,000 of the general fund appropriation for GOCPYVS made for the purposes of general administration may not be expended until, prior to providing fiscal 2022 awards and no later than August 1, 2021, GOCPYVS reports to the budget committees on:

- (1) each proposed grant award;
- (2) how priority has been given to non-State victim services providers;
- (3) whether each grant is equal to fiscal 2020 awards; and, if it is not, the identification of the difference in funding and justification for this difference; and
- (4) the amount of VOCA funding held in reserve.

The budget committees shall have 45 days from the receipt of the report to review and comment. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted.

Further provided that \$500,000 of the general fund appropriation for the purposes of administration may not be expended until GOCPYVS submits a report by November 1, 2021, regarding the federal VOCA funding. The report should include:

(1) total active VOCA grant awards as of January 1, 2021, including grant number, implementing agency, project title, start date, end date, amount of award, jurisdiction of implementation, and the brief description/abstract of the grant;

(2) for each VOCA grant award in item (1) and for any other VOCA grant awards made subsequently, a description of whether for the federal fiscal year beginning October 1, 2021, the award was continued, awarded, or otherwise funded, including the grant number, implementing agency, project title, start date, end date, amount of award, jurisdiction of implementation, and the brief description/abstract of the grant;

(3) for each VOCA grant award in items (1) and (2) identification of any decrease or other change in victim services funding between items (1) and (2), the justification for each

grant award change, and the impact on the continuity of crime victim services;

(4) the amount of unexpended funds for each open three –year VOCA grant, and the reason funds are unexpended, including whether they are held in reserve for future grants;

(5) identification of the respective amount of funds expended for the purpose of direct provision of services, administration, and that which went unobligated for the federal fiscal 2015, 2016, 2017, and 2018 three –year funding cycles;

(6) identification of the legislative appropriation for VOCA and the actual level of spending for each State fiscal year, beginning with State fiscal 2015 through 2021; and

(7) identification of any decrease or other change between the legislative appropriation for VOCA and the actual level of spending for VOCA for each State fiscal year identified in item (6), and the reason for any and all

disparities that may exist between the legislative appropriation and the actual spending level.

Further provided that \$500,000 of the general fund appropriation made for the purposes of administration may not be expended until GOCPYVS publishes the total amount of funding from federal VOCA funds on GOCPYVS's website, including funds available from prior years and including the specific amounts held in reserve from each federal three-year award. GOCPYVS shall provide the budget committees with a letter, no later than November 1, 2021, indicating that this data has been made available on its website and provides the web address to this data. The budget committees shall have 45 days from the receipt of the report to review and comment. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted.

Further provided that GOCPYVS is authorized to process a budget amendment recognizing additional federal funds to restore funding cuts to victim services providers if additional State or federal funding becomes available as a result of COVID relief or changes in the federal VOCA allocations to states or otherwise.

Further provided that it is the intent of the budget committees that the primary purpose of the programs funded through the VOCA grant awards be to ensure

continuity of trauma-informed, high-quality services for victims of crime as the COVID pandemic progresses.

General Fund Appropriation, provided that \$300,000 of this appropriation made for the purpose of agency administration may not be expended for that purpose but instead may be used only to contract and consult with a private accounting firm for the purposes of performing a fiscal audit of the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) grants management processes and all grants budgeted within its fiscal 2020 and 2021 legislative appropriations.

Further provided that an additional \$100,000 of this appropriation made for the purpose of administration may not be expended until GOCPYVS submits a report to the Governor and the budget committees detailing the following:

(1) the findings of this audit;

(2) an explanation of the corrective actions taken by GOCPYVS to address the findings of the audit identified in item (1);

(3) the fiscal 2020 legislative appropriation and fiscal 2020 actual expenditure for all general, special, and federal fund grants budgeted within GOCPYVS; and

(4) the fiscal 2021 legislative appropriation and fiscal

2021 actual expenditure  
for all general, special,  
and federal fund grants  
budgeted within  
GOCPYVS.

The report shall be submitted by  
December 31, 2021, and the  
budget committees shall have 45  
days from the receipt of the report  
to review and comment. Funds  
restricted pending the receipt of a  
report may not be transferred by  
budget amendment or otherwise  
to any other purpose and shall  
revert to the General Fund if the  
report is not submitted to the  
budget committees.

Funds are appropriated in other  
agency budgets to pay for services  
provided by this program.  
Authorization is hereby granted  
to use these receipts as special  
funds for operating expenses in  
this program.