to the care and rehabilitation of victims of human trafficking;

Whereas survivors of human trafficking crimes risk their lives and the lives of their families to assist in the investigation and prosecution of their former captors;

Whereas effective prosecution of human trafficking crimes will not be possible unless adequate protections are offered to the survivors;

Whereas the fight to eliminate human trafficking and slavery requires the involvement of State and local law enforcement officials, as well as Federal law enforcement efforts;

Whereas the enactment of comprehensive State laws criminalizing human trafficking and slavery may be necessary to ensure that Federal efforts are accompanied by robust efforts at the State and local levels;

Whereas the States of Texas, Washington, Missouri, and Florida have recently enacted comprehensive State criminal laws against human trafficking and slavery;

Whereas the Department of Justice recently announced a comprehensive model State anti-trafficking criminal statute, and encouraged States to adopt such laws, at its first ''National Conference on Human Trafficking,'' held in Tampa, Florida; and

Whereas the Department of Justice's model State anti-trafficking criminal statute is available at the Department's website, http://www.usdoj.gov/crt/crim/model_state_law.pdf: Now, therefore, be it

Resolved, That the Senate—

(1) supports the bipartisan efforts of Congress, the Department of Justice, and State and local law enforcement officers to combat human trafficking and slavery;

(2) strongly encourages State legislatures to carefully examine the Department of Justice's model State anti-trafficking criminal statute, and to seriously consider adopting State laws combating human trafficking and slavery wherever such laws do not currently exist;

(3) strongly encourages State legislatures to carefully examine the Federal benefits and protections for victims of human trafficking and slavery contained in the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003, and to seriously consider adopting State laws that, at a minimum, offer these explicit protections to the victims; and

(4) supports efforts to educate and empower State and local law enforcement officers in the identification of victims of human trafficking.

EXPEDITIOUS SUPREME COURT ACTION IN BLAKELY V. WASHINGTON

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 130.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 130) expressing the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the confusion and inconsistency in the Federal criminal justice system caused by its decision in Blakely v. Washington, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. Madam President, S. Con. Res. 130 expresses the sense of Congress that the Supreme Court should expedite consideration of the applicability of Blakely v. United States to the Federal Sentencing Guidelines.

As one of the original cosponsors of the Sentencing Reform Act of 1984, which created the United States Sentencing Commission, and a proponent of reducing sentencing disparity across the nation, I have a strong interest in preserving the integrity of the Federal guidelines against constitutional attack. Congress enacted the Sentencing Reform Act to reduce unwarranted disparity in Federal sentencing, including racial, geographical, and other unfair sentencing disparities by establishing standardized sentencing rules while leaving judges enough discretion to impose just sentences in appropriate cases.

As many here may already know, criminal defendants are routinely sentenced by judges who decide sentencing facts based upon a preponderance of the evidence standard. This has all changed in recent weeks. On June 24, 2004, in Blakely v. Washington, the Supreme Court held that any fact that increases the maximum penalty under a State statutory sentencing guidelines scheme must be presented to a jury and proved beyond a reasonable doubt even though the defendant's sentence falls below the statutory maximum sentence.

Although the Supreme Court explicitly stated in a footnote that ''The Federal Guidelines are not before us, and we express no opinion on them,'' it also characterized the government's amicus brief as questioning whether differences between the State and Federal sentencing schemes are constitutionally significant. The ambiguity apparent in Blakely and the strong suggestions by the dissent that it will apply to the Federal sentencing guidelines, has understandably created angst throughout the Federal justice system.

In just 2½ weeks after the Supreme Court's decision, we already had a split among the Federal circuit courts of appeal. In addition, at least two dozen lower Federal courts—and probably many more—have ruled the Federal Sentencing Guidelines unconstitutional. Some judges disregard the Federal sentencing guidelines in their entirety. Other judges apply mitigating sentencing factors but disregard any relevant aggravating factors. Still other judges are convening juries to decide some of these sentencing facts.

In fact, as I learned when the Judiciary Committee held a hearing on this very issue just last week, in my home State of Utah, the district judges adopted four different approaches to sentencing defendants after Blakely.

Let me briefly describe a couple of examples of the havoc caused by this Blakely decision. I'm sure we all recall Dwight Watson, the man who sat in a tractor last year outside the U.S. Capitol for 47 hours and threatened to blow up the area with organophosphate bombs. The day before the Blakely opinion, Mr. Watson was sentenced to a 6-year prison sentence. Less than a week after the Supreme Court's opinion, he was resentenced to 16 months, which was essentially time served. He is now a free man.

A defendant in West Virginia had an offense level that was off the sentencing charts. Although he would have been subject to a life sentence under the guidelines, the statutory maximum penalty was 20 years. He was given a 20-year sentence three days before Blakely was decided. A week later, his sentence was drastically reduced to 12 months. The judge did not rely on any relevant conduct or any sentencing enhancements in calculating the defendant's sentence. In other words, he only applied a portion of the sentencing guidelines—those that he thought remained valid after Blakely.

The concurrent resolution I introduce today urges the Supreme Court to act expeditiously to resolve whether the Federal sentencing guidelines can be constitutionally applied in light of Blakely v. Washington. While I wish we could have done more, unfortunately, we were unable to do so in such a short period of time.

As we go forward, I believe we should adopt legislation that would render the Federal sentencing guidelines constitutional regardless of whether Blakely applies. Unfortunately, while I have worked diligently with my colleagues on both sides of the aisle and in both Houses, we simply just ran out of time. While I hope that the Supreme Court will find application of the Federal sentencing guidelines constitutional under the 6th Amendment, I will continue to work with my colleagues over the next several months in preparation of a contingency plan to ensure that regardless of what the Supreme Court decides, that we will be able to preserve a system that promotes uniformity and reduces sentencing disparity across this country.

Mr. LEAHY. Mr. President, the Supreme Court's decision last month in Blakely v. Washington has raised significant concerns about the validity of the Federal sentencing guidelines. Blakely held that sentencing procedures used by the State of Washington violated the defendant's constitutional right to a jury trial because they allowed the judge to impose an enhanced sentence based on facts that were neither found by a jury nor admitted by the defendant.

Within days of this decision, a split developed among the Federal district and circuit courts regarding the applicability of Blakely to the Federal Sentencing Guidelines, and one circuit court invoked a rarely used procedural mechanism to certify the question to the Supreme Court. Lower Federal courts continue to reach inconsistent positions on Blakely issues on virtually a daily basis. By all accounts, the confusion and uncertainty is frustrating the orderly administration of justice in courts across the country.

Two and one-half weeks after the Court issued its Blakely decision, the Senate Judiciary Committee convened a hearing to consider the implications of the decision for the Federal criminal justice system. As witness after witness described the disarray in the lower Federal courts, it became increasingly clear that the not-hypothetical application of Blakely to the Federal Sentencing Guidelines is threatening to undo 20 years of sentencing reform.

Twenty years after enactment of the Sentencing Reform Act of 1984, we must remind ourselves about the core values and principles that accounted for the bipartisan popularity of the original Federal Guidelines concept. The 1984 act was written and enacted against a history of racial, geographical, and other unfair disparities in sentencing. Congress sought to narrow these disparities while leaving judges enough discretion to do justice in the particular circumstances of each individual case. The task of harmonizing sentencing policies was deliberately placed in the hands of an independent, expert Sentencing Commission.

The Guidelines as originally conceived were about fairness, consistency, predictability, reasoned discretion, and minimizing the role of congressional politics and the ideology of the individual judge in sentencing. Blakely threatens a return to the bad old days of fully indeterminate sentencing when improper factors such as race, geography and the predilections of the sentencing judge could drastically affect the sentence. While I favor Federal judges exercising their discretion in pursuit of individual justice in individual cases, I do not want to see a return to the bad old days.

It may be that the Blakely decision was occasioned in part by recent tinkering with the Sentencing Reform Act that went too far. In recent years, Congress has seriously undermined the basic structure and fairness of the Federal Guidelines system through posturing and ideology. There has been a flood of legislation establishing mandatory minimum sentences for an ever-increasing number of offenses, determined by politics rather than any systemic analysis of the relative seriousness of different crimes. There has been ever-increasing pressure on the Sentencing Commission and on individual district court judges to increase Guidelines sentences. The culmination of these unfortunate trends was the so-called Feeney Amendment to the PROTECT Act, in which this Congress cut the Commission out altogether and rewrote large sections of the Guidelines manual, including commentary, and in which Congress also provided for a judicial ''black list'' to intimidate judges whose sentences were insufficiently draconian to suit the current Justice Department.

The Feeney Amendment was a direct assault on judicial independence. It was forced through the Congress with virtually no debate and without meaningful input from judges or practitioners. That process was particularly unfortunate given that the Republican majority's justification for the Feeney Amendment—a supposed ''crisis'' of downward departures—was unfounded. In fact, downward departure rates were well below the range contemplated by Congress when it authorized the Federal Sentencing Guidelines, except for departures requested by the Government itself. But having a false factual predicate for forcing significantly flawed congressional action has become all too familiar during the last few years.

The attitude underlying too many of these recent developments seems to be that politicians in Washington are better at sentencing than the Federal trial judges who preside over individual cases, and that longer sentences are always better. Somewhere along the line we appear to have forgotten that justice is not just about treating like cases alike; it is also about treating different cases differently.

These are issues that need to be examined in the future, in a thoughtful and deliberative fashion. The Sentencing Reform Act was the product of many years of work by members on both sides of the aisle. The current Sentencing Guidelines reflect more than a decade of work by the Sentencing Commission. If the Blakely decision ultimately requires some modification of our Federal sentencing system, we must proceed with extreme care. The last thing that any of us want is to risk making an already chaotic situation even worse by enacting ill-considered legislation that is itself subject to constitutional attack.

The Department of Justice, the Sentencing Commission, and other experts who testified before the Judiciary Committee have urged Congress not to act precipitously. I agree that corrective legislation is not immediately necessary and could be counter-productive, provided that the Supreme Court expeditiously clarifies the scope of its Blakely decision.

For these reasons, I am pleased to join Senator HATCH and other Judiciary Committee members in introducing a resolution regarding the Blakely decision. The words of the resolution are clear, unambiguous and unassailable: The Supreme Court of the United States should act expeditiously to resolve the current confusion and inconsistency in the Federal criminal justice system by promptly considering and ruling on the constitutionality of the Federal Sentencing Guidelines. Congress should take up and pass this resolution without delay.

Mr. FRIST. Madam President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Con. Res. 130) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 130

Whereas Congress enacted the Sentencing Reform Act of 1984 to provide certainty and fairness in sentencing, avoid unwarranted disparities among defendants with similar records found guilty of similar offenses, and maintain sufficient flexibility to permit individualized sentences when warranted;

Whereas Congress established the United States Sentencing Commission as an independent commission in the Judicial branch of the United States to establish sentencing policies and practices for the Federal criminal justice system that meet the purposes of sentencing and the core goals of the Sentencing Reform Act;

Whereas Congress has prescribed both statutory minimum and statutory maximum penalties for certain offenses and the Sentencing Reform Act authorizes the Sentencing Commission to promulgate guidelines and establish sentencing ranges for the use of a sentencing court in determining a sentence within the statutory minimum and maximum penalties prescribed by Congress;

Whereas the statutory maximum penalty is the maximum penalty provided by the statute defining the offense of conviction, including any applicable statutory enhancements, and not the upper end of the guideline sentencing range promulgated by the Sentencing Commission and determined to be applicable to a particular defendant;

Whereas both Congress and the Sentencing Commission intended the Federal Sentencing Guidelines to be applied as a cohesive and integrated whole, and not in a piecemeal fashion;

Whereas in Mistretta v. United States, 488 U.S. 361 (1989), the Supreme Court of the United States upheld the constitutionality of the Sentencing Reform Act and the Federal Sentencing Guidelines against separation-of-powers and non-delegation challenges;

Whereas in Blakely v. Washington, 124 S. Ct. 2531 (2004), the Supreme Court held that the sentencing guidelines of the State of Washington violated a defendant's Sixth Amendment right to trial by jury;

Whereas despite Mistretta and numerous other Supreme Court opinions over the past 15 years affirming the constitutionality of various aspects of the Guidelines, the Blakely decision has raised concern about the continued constitutionality of the Federal Sentencing Guidelines;

Whereas the Blakely decision has created substantial confusion and uncertainty in the Federal criminal justice system;

Whereas the lower Federal courts have reached inconsistent positions on the applicability of Blakely to the Federal Sentencing Guidelines;

Whereas there is a split among the circuit courts of appeal as to the applicability of Blakely to the Federal Sentencing Guidelines, and the Second Circuit Court of Appeals has certified the question to the Supreme Court;

Whereas the orderly administration of justice in pending and resolved trials, sentencings and plea negotiations has been affected by the uncertainty surrounding the applicability of the Blakely decision to the Federal Sentencing Guidelines;

Whereas the current confusion in the lower Federal courts has and will continue to produce results that disserve the core principles underlying the Sentencing Reform Act;

Whereas two and one-half weeks after the Supreme Court issued its decision in Blakely, the Senate Judiciary Committee convened a hearing to consider the implications of the decision for the Federal criminal justice system; and

Whereas the Department of Justice, the Sentencing Commission, and others advised the Committee that corrective legislation was not necessary at this time, with the hope that the Supreme Court would clarify the applicability of its Blakely decision to the Federal Sentencing Guidelines in an expeditious manner: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the current confusion and inconsistency in the Federal criminal justice system by promptly considering and ruling on the constitutionality of the Federal Sentencing Guidelines.

MEASURES PLACED ON THE CALENDAR—S. 2694, S. 2695, AND H.R. 4492

Mr. FRIST. Madam President, I understand there are three bills at the desk which are due for a second reading.

The PRESIDING OFFICER. The clerk will read the titles of the bills for a second time en bloc.

The legislative clerk read as follows:

A bill (S. 2694) to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

A bill (S. 2695) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations.

A bill (H.R. 4492) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes.

Mr. FRIST. Madam President, I object to further proceedings on the measures en bloc at this time.

The PRESIDING OFFICER. Objection is heard.

The bills will be placed on the calendar.

MEASURES READ THE FIRST TIME—S. 2704 AND S. 2714

Mr. FRIST. Madam President, I understand there are two bills at the desk, and ask unanimous consent that they be read for the first time en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the titles of the bills for the first time en bloc.

The legislative clerk read as follows:

A bill (S. 2704) to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

A bill (S. 2714) to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs.

Mr. FRIST. Madam President, I now ask for their second reading and, in order to place the bills on the calendar under the provisions of rule XIV, object to further proceedings on these matters en bloc.

The PRESIDING OFFICER. Objection is heard.

The bills will receive their second reading on the next legislative day.

ORDERS FOR THURSDAY, JULY 22, 2004

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, July 22. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, for statements only, for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate proceed to executive session and resume consideration of Calendar No. 705, the nomination of Henry Saad to be a U.S. circuit judge of the Sixth Circuit; provided further that the time until 11 a.m. be equally divided between the chairman and ranking member of the Judiciary Committee or their designees. I further ask consent that at 11 a.m., the Senate proceed to the cloture votes on the nominations, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume debate on the three Sixth Circuit judges. At 11 a.m., the Senate will proceed to three consecutive votes on the motions to invoke cloture on the three judicial nominations.

For the remainder of the day, the Senate will consider the Department of Defense appropriations conference report when it becomes available. Therefore, Senators should expect a busy day, and additional rollcall votes are expected following the scheduled cloture votes.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Madam President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 706, 793, 798, and 799. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS

DEPARTMENT OF STATE

Thomas Fingar, of Virginia, to be an Assistant Secretary of State (Intelligence and Research).

DEPARTMENT OF JUSTICE

Robert Clark Corrente, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

DEPARTMENT OF THE TREASURY

Juan Carlos Zarate, of California, to be an Assistant Secretary of the Treasury.

Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:16 p.m., adjourned until Thursday, July 22, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 21, 2004:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

LLOYD O. PIERSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE CONSTANCE BERRY NEWMAN.

AFRICAN DEVELOPMENT FOUNDATION

LLOYD O. PIERSON, AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2009, VICE JOHN F. HICKS, SR., TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 9335:

To be brigadier general

COL. DANA H. BORN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT L. VAN ANTWERP JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES J. LOVELACE JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED