

Demographic Impact Statement

House File 2013-1CE

Marijuana Offenses Thresholds Adjusted

Statement Date: May 12, 2020

The staff of the Minnesota Sentencing Guidelines Commission (MSGC) prepares demographic impact statements for proposed crime bills when it appears that the bill's policy changes would likely increase or decrease the number of people convicted of felonies each year by 50 or more; when it appears that the bill's policy changes would likely increase or decrease the annual need for prison beds by 10 or more; or upon legislative request.

Bill Description

HF 2013, 1st Committee (Division) Engrossment, reclassifies certain nonresinous marijuana sale and possession offenses that now qualify as fifth-degree felony offenses. It establishes a new statute (Minn. Stat. § 152.0251) for nonfelony marijuana offenses with penalties based on the quantity of marijuana sold or possessed, or possession of marijuana in a motor vehicle.

Within the new statute, the bill establishes new gross misdemeanor and misdemeanor possession offenses (Minn. Stat. § 152.0251 subd. 2) for possessing a total weight of 250 grams or less of the nonresinous form of marijuana. The bill establishes new gross misdemeanor and misdemeanor sale offenses (Minn. Stat. § 152.0251 subd. 1) for selling a small amount (42.5 grams or less) of nonresinous marijuana for remuneration.

The bill amends Minn. Stat. § 152.025 so that the following offenses remain fifth-degree felony offenses: sale or possession of resinous marijuana; sale of more than a small amount of nonresinous marijuana; and possession of 250 grams of nonresinous marijuana (under new subd. 2(3)).

Sale for no remuneration, and possession, of a small amount of nonresinous marijuana remain petty misdemeanors, but those offenses are recoded under Minn. Stat. § 152.0251 subd. 5. The existing petty misdemeanor provision (Minn. Stat. § 152.027 subd. 4) is repealed. Also repealed are the following related provisions: a provision under which petty misdemeanor violators must generally complete a state-approved drug education program; a misdemeanor penalty for willful failure to comply with the petty misdemeanor sentence; and a requirement for repeat petty misdemeanor violators to generally be required to complete a chemical dependency evaluation and, if indicated, treatment.

The bill recodes the misdemeanor offense of possession of marijuana in a motor vehicle (from Minn. Stat. § 152.027 subd. 3 to § 152.0251 subd. 4) and increases the weight threshold from 1.4 grams to 5 grams.

The offenses, threshold amounts for nonresinous marijuana, existing and new penalty levels, and new statutory references are displayed in Table 1.

Table 1. Threshold Amounts for Nonresinous Marijuana, Existing and New Penalty Levels

Offense	New Amounts (grams)	Existing Penalty Level	New Penalty Level	New Minn. Statute section 152
Sale	>42.5	Felony	Felony	.025, subd. 1(1)
Sale – For Remuneration	>10-42.5	Felony	Gross Misdemeanor	.0251, subd. 1(1)
Sale – For Remuneration	10 or less	Felony	Misdemeanor	.0251, subd. 1(2)
Sale – No Remuneration	42.5 or less	Petty Misdemeanor	Petty Misdemeanor	.0251, subd. 5(2)
Possession	>250	Felony	Felony	.025, subd. 2(1), (3)
Possession	>100-250	Felony	Gross Misdemeanor	.0251, subd. 2(1)
Possession	>42.5-100	Felony	Misdemeanor	.0251, subd. 2(2)
Possession	42.5 or less	Petty Misdemeanor	Petty Misdemeanor	.0251, subd. 5(2)
Possession in Motor Vehicle	>5	Misdemeanor (>1.4 grams)	Misdemeanor	.0251, subd. 5(2)

The bill is effective August 1, 2020, and applies to crimes committed on or after that date.

Estimated Impact

In its fiscal note, MSGC staff estimated that the bill would likely result in 193 fewer felony offenders annually and an eventual prison reduction of 10 beds. This estimate relied on drug-quantity data collected from the criminal complaints of felony drug offenses committed on or after August 1, 2016, and sentenced in 2016, 2017 and 2018 (“post-DSRA sample”); and data collected on whether the marijuana was described in the complaints as resinous (e.g., hash oil or marijuana wax) or nonresinous (i.e., herbal), with respect to both the post-DSRA sample and all felony marijuana cases sentenced in 2018 generally.

The 23 fifth-degree marijuana offenders sentenced in 2018 who received prison are expected to eventually require 28 beds a year. If bed usage is reduced by the same percentage as the percentage of beds used offenders in the post-DSRA sample who would fall below the bill’s felony thresholds (36%), it is expected that the number of beds required for fifth-degree marijuana offenders will decline by 36 percent—from 28 beds per year to 18—a 10-bed reduction. Allowing time for implementation of the modifications, it is anticipated that there will be a 5-bed reduction in FY 2021, and a 10-bed reduction if FY 2022 and every year after. The timing is provided in Table 2.

Table 2. Estimated Prison Bed Reduction by Fiscal Year

Fiscal Year	Number of Prison Beds Reduced
2021	5
2022	10
2023	10
2024	10
2025	10

Current State Demographics

Table 3 displays current demographic information pertaining to three populations within the state: the felony population (that is, the population of offenders sentenced for felony offenses in 2018); the adult prison population (as of July 1, 2018); and the general population, age 15 and older (on July 1, 2018, as estimated by the U.S. Census Bureau). Table 3 breaks down those populations by the following demographic categories: Gender; race and ethnicity; and judicial district. A map of Minnesota's ten judicial districts may be found at <http://www.mncourts.gov/Find-Courts.aspx>.

Table 3. Minnesota's 2018 General Population, Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

	General Population			Felony Population			Prison Population	
	U.S. Census Category	2018 Estimated Pop. Age 15 & Older		MSGC Category	Offenders Sentenced in 2018		2018 Adult Inmate Population	
		Number	Percent		Number	Percent	Number	Percent
	Male	2,240,025	49.5%	Male	14,566	79.7%	9,146	92.9%
	Female	2,284,777	50.5%	Female	3,717	20.3%	703	7.1%
Race & Ethnicity	White*	3,785,189	83.7%	White	10,343	56.6%	4,553	46.2%
	Black or African American*	291,296	6.4%	Black	4,880	26.7%	3,492	35.5%
	American Indian*	71,013	1.6%	American Indian	1,574	8.6%	960	9.7%
	Hispanic**	210,101	4.6%	Hispanic**	948	5.2%	565	5.7%
	Asian*	238,780	5.3%	Asian	533	2.9%	264	2.7%
	Native Hawaiian/ Other Pacific Islander*	5,163	0.1%	Other/ Unknown	6	0.3%	15	0.2%
		Total	4,524,802	100.0%	Total	18,283	100.0%	9,849
Judicial District	First	636,267	14.1%	First	2,484	13.6%	863	8.8%
	Second	441,619	9.8%	Second	1,813	9.9%	1,197	12.2%
	Third	388,888	8.6%	Third	1,361	7.4%	711	7.2%
	Fourth	1,025,940	22.7%	Fourth	4,070	22.3%	2,606	26.5%
	Fifth	232,992	5.1%	Fifth	1,016	5.6%	433	4.4%
	Sixth	211,161	4.7%	Sixth	831	4.5%	545	5.5%
	Seventh	395,773	8.7%	Seventh	1,874	10.2%	1,097	11.1%
	Eighth	128,902	2.8%	Eighth	453	2.5%	286	2.9%
	Ninth	276,169	6.1%	Ninth	1,755	9.6%	1,000	10.2%
	Tenth	787,091	17.4%	Tenth	2,627	14.4%	1,004	10.2%

Source of July 1, 2018, population estimate: U.S. Census Bureau (August 2019).

* Not Hispanic, alone or in combination with one or more other races. Sum of percentages of residents in each racial/ethnic category exceeds 100 percent (101.7%) because residents of more than one race are counted in more than one category.

** Table 3 lists all Hispanic offenders and residents as Hispanic, regardless of race.

*** The MSGC category of "Other/Unknown" is not a valid comparison group to the U.S. Census category of "Native Hawaiian/Other Pacific Islander."

Source of July 1, 2018, Adult Inmate Population: Minn. Department of Corrections. Judicial district populations exclude 107 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

Demographic Impact

Demographic Characteristics – New Felony Population

In its fiscal note, MSGC staff estimated that the bill would likely result in 193 fewer felony offenders annually. One might assume that, in the future, the demographic characteristics of the offenders moving from felony level offenses to lower level offenses will be the same as the known demographic characteristics of the offenders in the post-DSRA sample who would move out of the felony level under the bill's thresholds.

If that assumption is accurate, it is estimated that the demographic characteristics of the 193 offenders annually moving from felony to lower-level offenses as a result of this bill would be as follows.

- **Gender:** Male (95%); and Female (5%).
- **Race & Ethnicity:** White (38%); Black (50%); American Indian (3%); Hispanic (5%); Asian (4%).
- **Judicial District:** First (9%); Second (9%); Third (10%); Fourth (38%); Fifth (5%); Sixth (1%); Seventh (10%); Eighth (1%); Ninth (8%); and Tenth (9%).

Table 4, on page 5, shows the demographic change in the annual population of felony offenders sentenced that would result from the enactment of this bill, if the assumption stated above is accurate.

Table 4. Minnesota's Existing Annual Felony Population, Estimated Change in Felony Offenders Sentenced, and Estimated Resulting Annual Felony Population, by Gender, Race and Ethnicity, and Judicial District

MSGC Category	Felony Population		Estimated Change in Felony Offenders*		Estimated Resulting Felony Population*			
	No.	%	No.	%	No.	%	Estimated resulting rate per 100,000††	% change from existing felony pop.
	2018 Felony Population		Rate per 100,000†					
Male	14,566	79.7%	-183.4	95%	14,383	79.5%	642	-1.3%
Female	3,717	20.33%	-9.7	5%	3,707	20.49%	162	-0.3%
White	10,343	56.6%	-73.3	38%	10,270	56.8%	271	-0.7%
Black	4,880	26.69%	-96.5	50%	4,784	26.44%	1,642	-2.0%
American Indian	1,574	8.6%	-5.8	3%	1,568	8.7%	2,208	-0.4%
Hispanic	948	5.2%	-9.7	5%	938	5.2%	447	-1.0%
Asian	533	2.9%	-7.7	4%	525	2.9%	220	-1.4%
First	2,484	13.6%	-17.4	9%	2,467	13.6%	388	-0.7%
Second	1,813	9.9%	-17.4	9%	1,796	9.9%	407	-1.0%
Third	1,361	7.4%	-19.3	10%	1,342	7.4%	345	-1.4%
Fourth	4,070	22.3%	-73.3	38%	3,997	22.1%	390	-1.8%
Fifth	1,016	5.6%	-9.7	5%	1,006	5.6%	432	-0.9%
Sixth	831	4.54%	-1.9	1%	829	4.58%	393	-0.2%
Seventh	1,874	10.25%	-19.3	10%	1,855	10.25%	469	-1.0%
Eighth	453	2.5%	-1.9	1%	451	2.5%	350	-0.4%
Ninth	1,755	9.6%	-15.4	8%	1,740	9.6%	630	-0.9%
Tenth	2,627	14.37%	-17.4	9%	2,610	14.43%	332	-0.7%
Total	18,284	100.0%	-193.0	100%	18,091	100.0%	400	-1.1%

* This table's projections assume that future offenders' demographic characteristics will be similar to past offenders, as stated on page 4. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 residents age 15 and older, as shown on Table 3, "General Population" (2018 U.S. Census Bureau Estimate).

** I.e., the expected change, in percentage points, of the category's share of the annual felony population relative to the other demographic categories.

Demographic Characteristics – New Prison Population

It is estimated that the bill will result in an eventual reduction in the need for 10 prison beds. One might assume that, in the future, the demographic characteristics of the occupants of the vacated prison beds will be the same as the known demographic characteristics of the imprisoned marijuana offenders in the post-DSRA sample that would no longer receive prison sentences felonies under the provisions of this bill.

If that assumption is accurate, it is estimated that the demographic characteristics of the occupants of the vacated prison beds resulting from this bill would be as follows.

- **Gender:** Male (92.3%); Female (7.7%).
- **Race & Ethnicity:** White (23.1%); Black (63.5%); American Indian (0%); Hispanic (0%); Asian (15.4%).
- **Judicial District:** First (23.1%); Second (7.7%); Third (7.7%); Fourth (23.1%); Fifth (0%); Sixth (0%); Seventh (15.4%); Eighth (0%); Ninth (7.7%); and Tenth (15.4%).

Table 5, on page 7, shows the demographic change in the prison population that would result from the enactment of this bill, if the assumption stated above is accurate. With respect to “percent-point change relative to other categories,” the column is empty because, relative to other demographic categories, none of the demographic categories would change by 0.1 percentage points or more.

Table 5. Minnesota's Existing Annual Prison Population, Estimated Change in Prison Beds Needed, and Estimated Resulting Annual Prison Population, by Gender, Race and Ethnicity, and Judicial District

Race & Ethnicity	Prison Population				Estimated Resulting Prison Population*				
	2018 Adult Inmate Population		Estimated Change in Prison Beds Needed*		Percent-point change relative to other categories**		Estimated resulting rate per 100,000*†		Percent change from existing prison pop.
	MSGC Category	Number	Percent	Rate per 100,000†	Beds	Percent	Number	Percent	
Male	9,146	92.9%	408	-9.2	92.3%	9,137	92.9%	408	-0.1%
Female	703	7.1%	31	-0.8	7.7%	702	7.1%	31	-0.1%
White	4,553	46.23%	120	-2.3	23.1%	4,551	46.25%	120	-0.1%
Black	3,492	35.46%	1,199	-6.4	63.5%	3,486	35.43%	1,197	-0.2%
American Indian	960	9.75%	1,352			960	9.76%	1,352	
Hispanic	565	5.7%	269			565	5.7%	269	
Asian	264	2.7%	111	-1.5	15.4%	262	2.7%	110	-0.6%
First	863	8.76%	136	-2.3	23.1%	861	8.75%	135	-0.3%
Second	1,197	12.2%	271	-0.8	7.7%	1,196	12.2%	271	-0.1%
Third	711	7.2%	183	-0.8	7.7%	710	7.2%	183	-0.1%
Fourth	2,606	26.5%	254	-2.3	23.1%	2,604	26.5%	254	-0.1%
Fifth	433	4.4%	186			433	4.4%	186	
Sixth	545	5.5%	258			545	5.5%	258	
Seventh	1,097	11.1%	277	-1.5	15.4%	1,095	11.1%	277	-0.1%
Eighth	286	2.9%	222			286	2.9%	222	
Ninth	1,000	10.2%	362	-0.8	7.7%	999	10.2%	362	-0.1%
Tenth	1,004	10.2%	128	-1.5	15.4%	1,002	10.2%	127	-0.2%
Total	9,849	100.0%	218	-10.0	100.0%	9,839	100.0%	217	-0.1%

* This table's projections assume that future offenders' demographic characteristics will be similar to past offenders, as stated on page 6. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 residents age 15 and older, as shown on Table 3, "General Population" (2018 U.S. Census Bureau Estimate).

** I.e., the expected change, in percentage points, of the category's share of the annual prison population relative to the other demographic categories.

Appendix: Historical Demographic Data

The following figures illustrate the change in the state’s population, imprisonment rates, and felony sentencing rates for the period 2002 to 2018. Rates are per 100,000 Minnesota residents age 15 and older.

Estimated Population, Age 15 and Older

Figure 1. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Gender and Total



Figure 2. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Race and Ethnicity

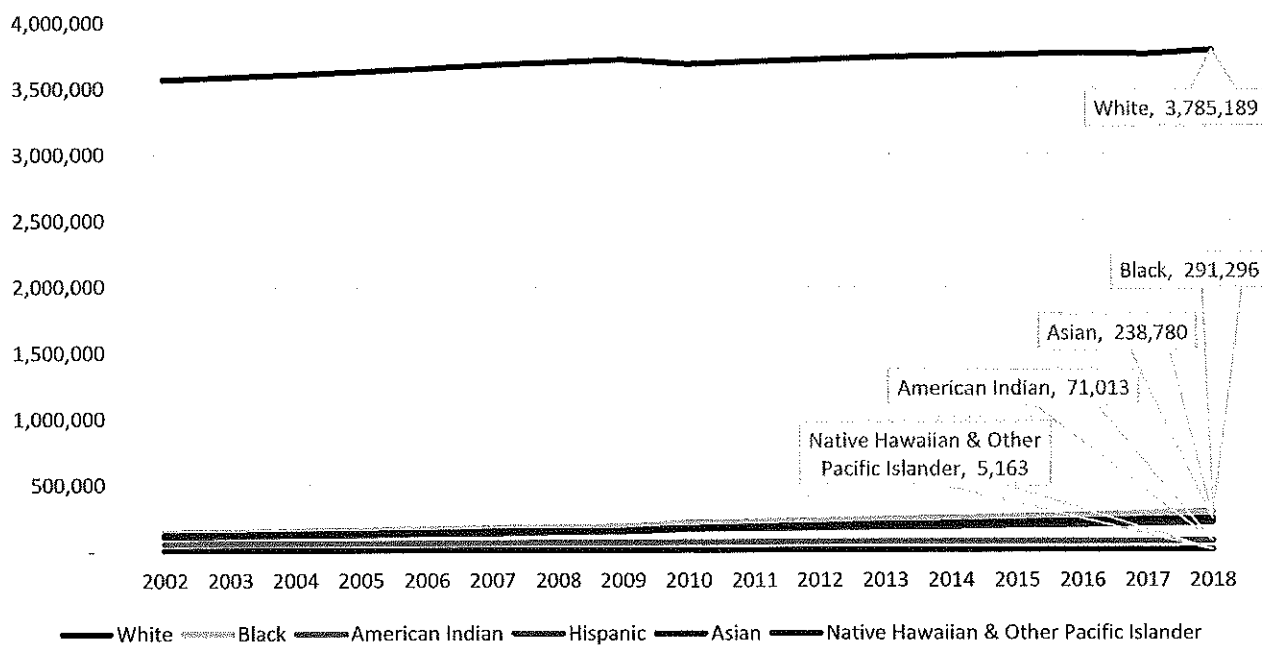
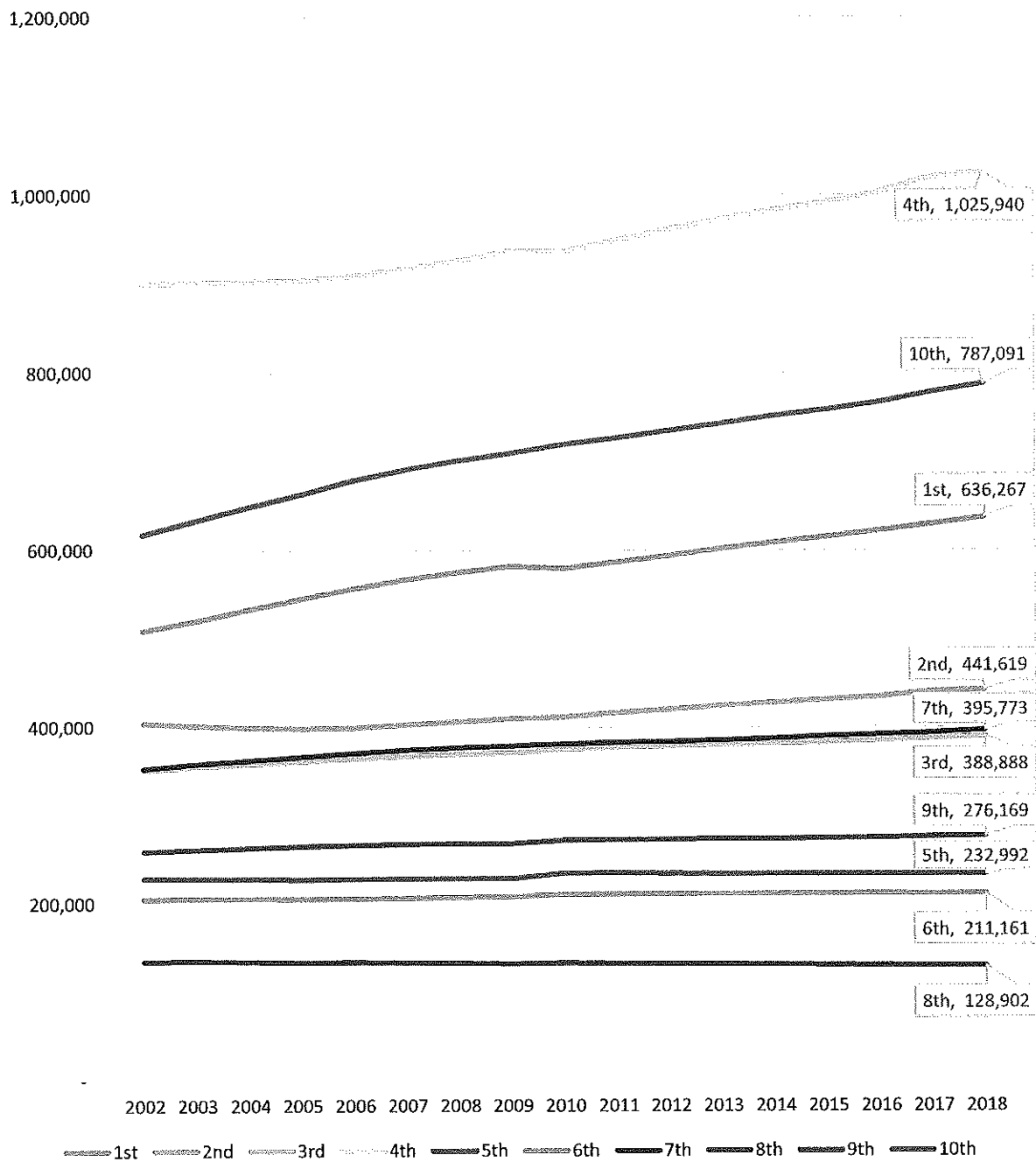


Figure 3. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Judicial District



Notes for Figure 1 through Figure 3: Minnesota residents age 15 and older on July 1 of the respective year. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category.

Felony Sentencing Rates

Figure 4. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Gender and Total

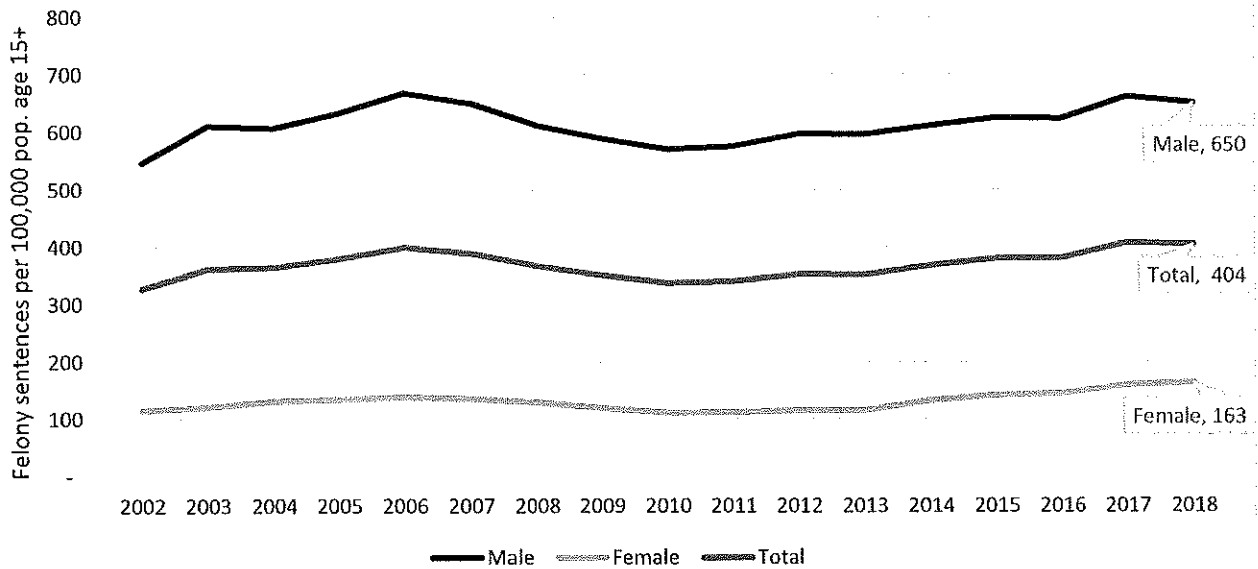


Figure 5. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Race and Ethnicity

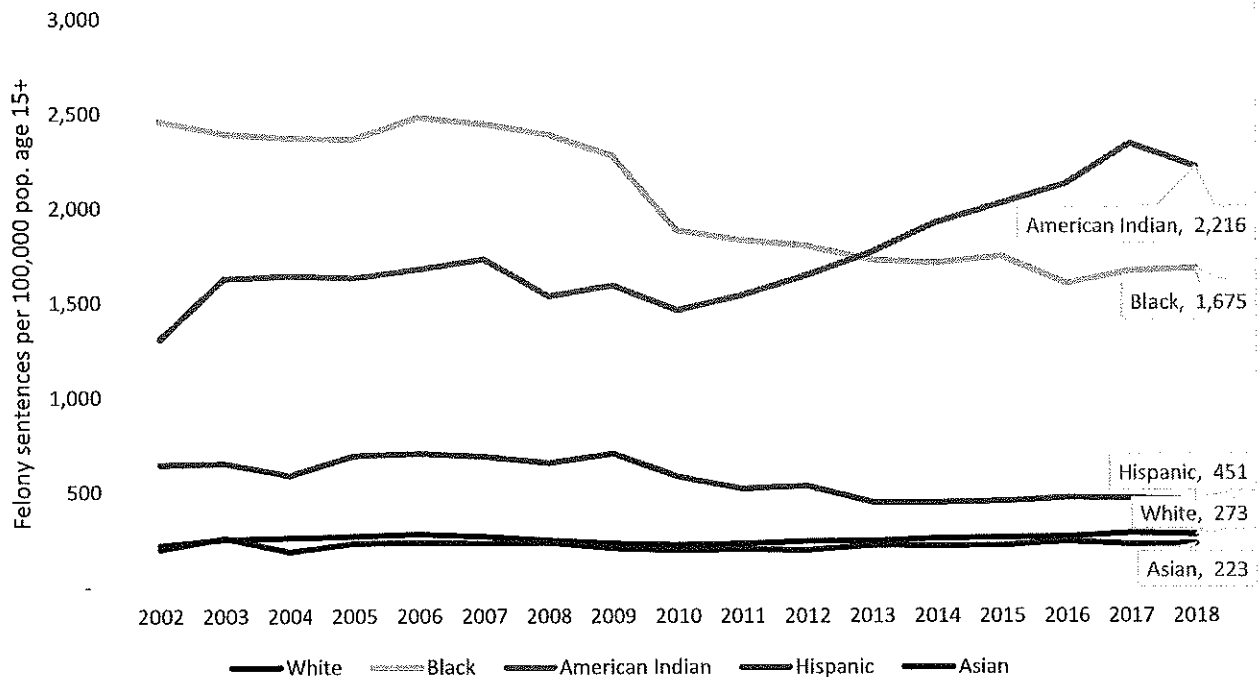
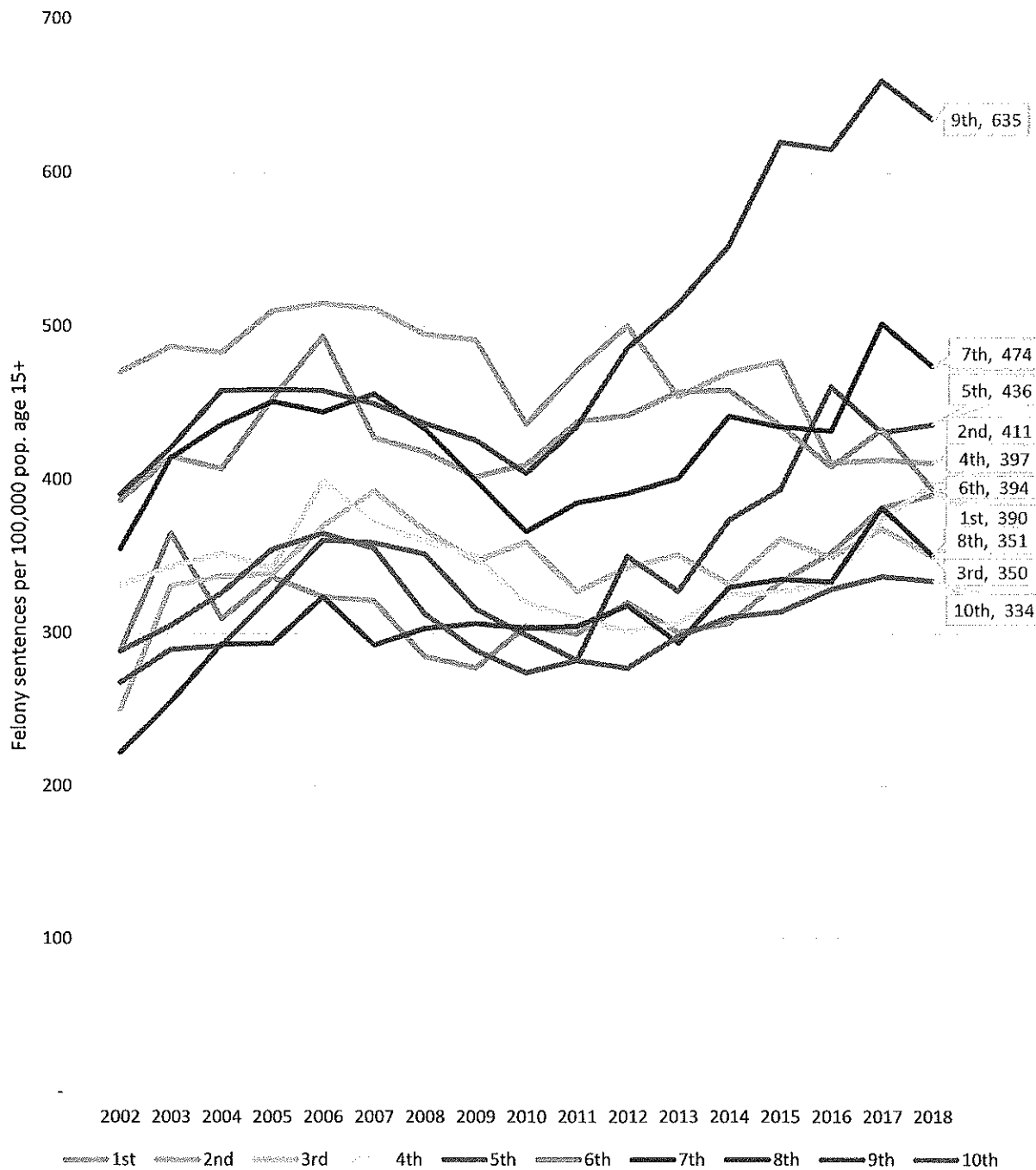


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Judicial District



Notes for Figure 4 through Figure 6: Rates are felony offenders sentenced annually per 100,000 Minnesota residents age 15 and older on July 1 of the respective year. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category. Other/unknown and Hawaiian/Pacific Islander are excluded.

Imprisonment Rates

Figure 7. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Gender and Total

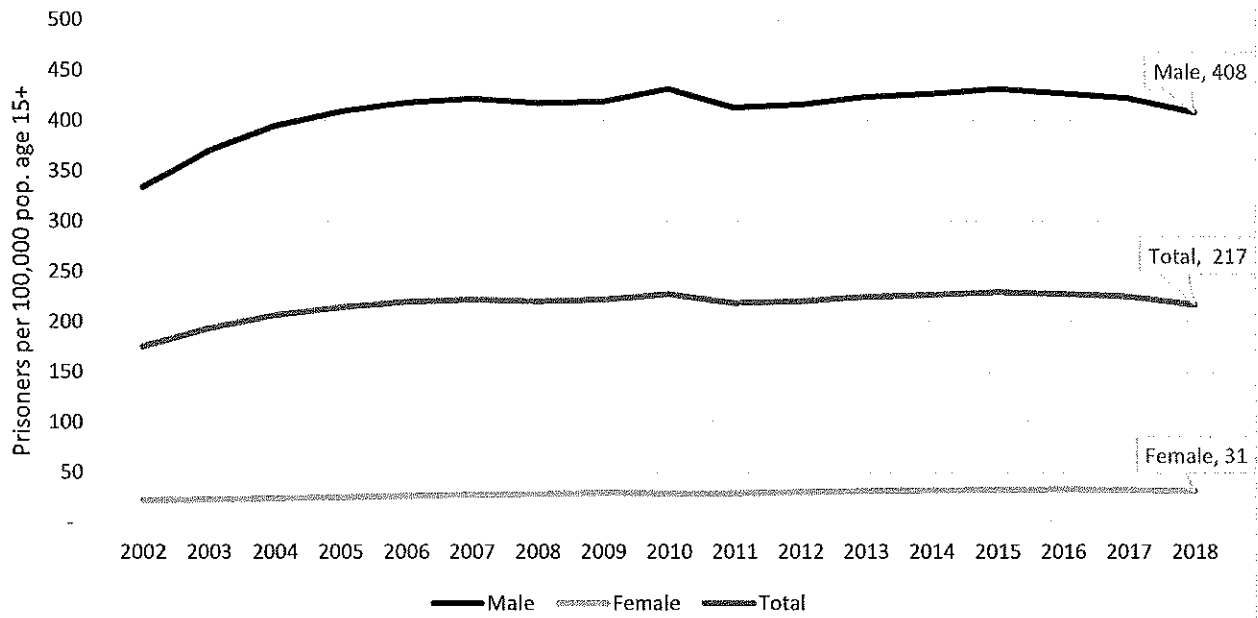


Figure 8. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Race and Ethnicity

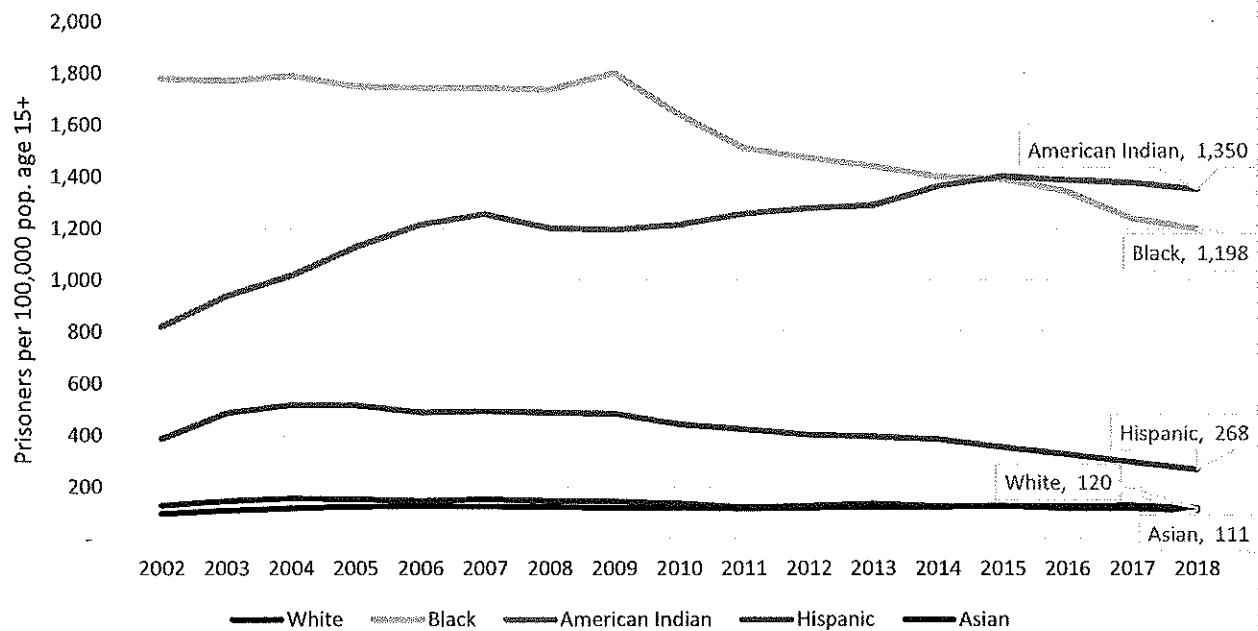
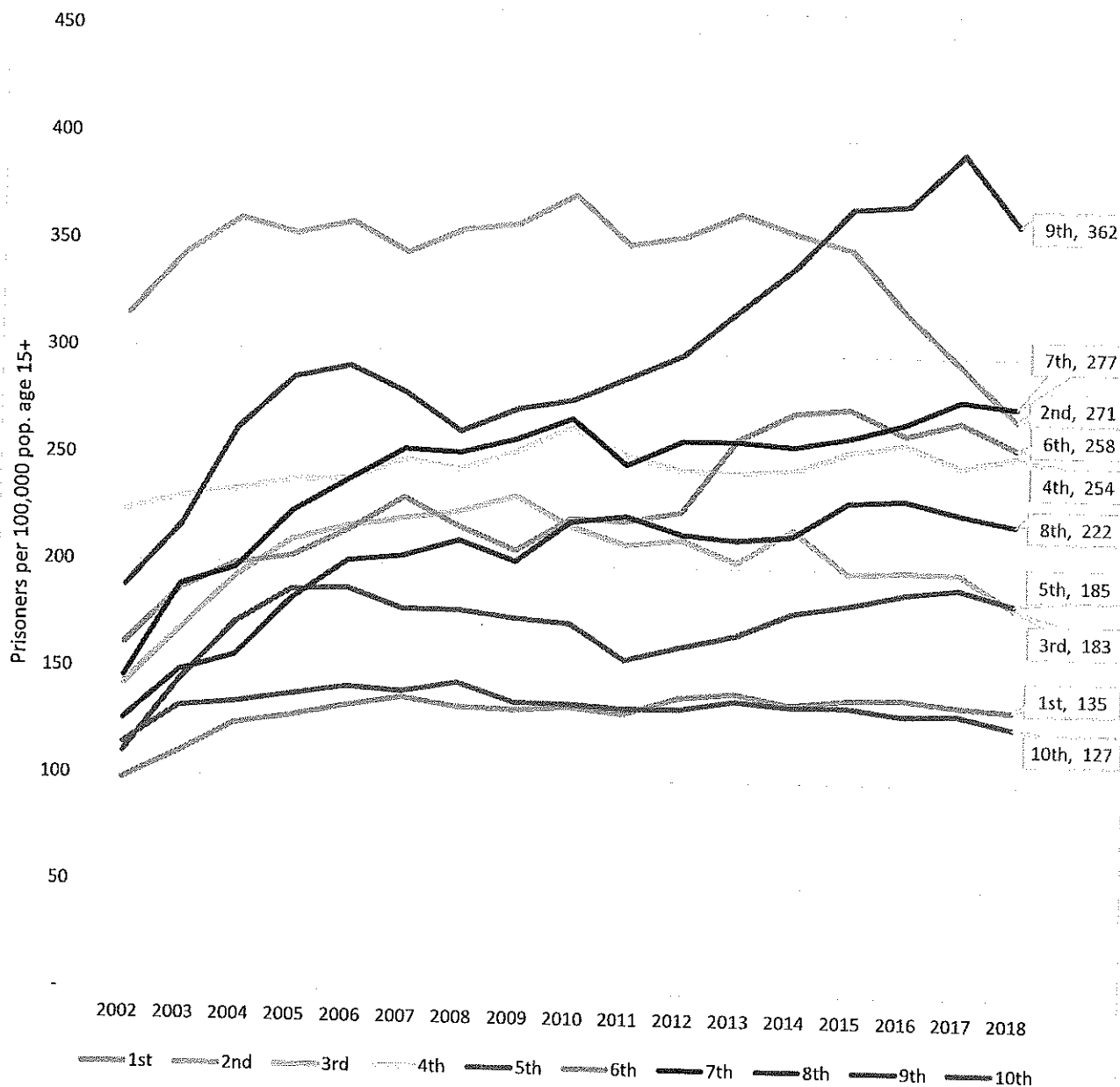


Figure 9. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Judicial District



Notes for Figure 7 through Figure 9: Rates are prisoners on July 1 of the respective year per 100,000 Minnesota residents age 15 and older on the same date. Source of prison population counts: Minn. Dep't of Corrections. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category. Other/unknown and Hawaiian/Pacific Islander are excluded, except for 2005-07, in which case they were included in the Asian prison population counts. Not all prisoners were associated with a particular judicial district.