

Demographic Impact Statement

House File 613-1UE

Penalties Increased Related to Human Trafficking

Statement Date: April 21, 2021

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

Bill [HF613-1UE](#), increases penalties for certain human trafficking offenses, patrons of prostitutes, solicitation of children to engage in sexual conduct, and certain trespassing offenses by amending Minn. Stat. §§ 609.1095, subdivision 1; 609.131, subdivision 2; 609.322, subdivisions 1, 1a; 609.324, subdivisions 2, 4; 609.3241; 609.352, subdivision 4; 609.605, subdivision 2; and repealing Minn. Stat. § 609.324, subdivision 3.

Section 1: Adds Minn. Stat. § 609.322 (sex trafficking) to the definition of "violent crime" in Minn. Stat. § 609.1095. This would make Sex Trafficking subject to the sentencing enhancements provided in Minn. Stat. § 609.1095, subdivision 2 (aggravated durational departure for dangerous offender who commits third violent crime up to the statutory maximum if the offender has two or more prior convictions for violent crimes); and subdivision 3 (mandatory commitment to the commissioner of corrections for at least the length of the presumptive sentence for a dangerous offender who commits third violent felony).

Section 2: Conforms to the repeal of Minn. Stat. § 609.324, subd. 3 (penalties for patrons of prostitutes) by removing that offense from the list of misdemeanor crimes in Minn. Stat. § 609.131, subd. 2, which cannot be certified as petty misdemeanors.

Sections 3 and 4: Increase the statutory maximums for sex trafficking. For first-degree offenses in Minn. Stat. § 609.322 subd. 1(a), the maximum is increased from 20 to 25 years. For second-degree offenses in Minn. Stat. § 609.322, subd.1a, the maximum is increased from 15 to 20 years. For either first- or second-degree offenses with aggravating circumstances under subd.1(b), the maximum is increased from 25 to 30 years.

Section 5 amends Minn. Stat. § 609.324, subdivision 2, to elevate the general offense of Patrons of Prostitution from a misdemeanor to a gross misdemeanor; to abolish the severity distinction between Patrons of Prostitution in a public place. It also creates a new felony crime with a statutory maximum of five years for violations within 10 years of a previous conviction under Minn. Stat. § 609.324 or 609.322.

Section 6: Conforming amendments to community service in lieu of minimum fine under Minn. Stat. § 609.324, subd. 4.

Section 7: Conforming amendments to penalty assessment authorized under Minn. Stat. § 609.3241.

Section 8: The statutory maximum for violations under Minn. Stat. § 609.352 (Solicitation of children to engage in sexual conduct) is increased from 3 to 5 years.

Section 9: The gross misdemeanor offense for trespass at shelters for women in Minn. Stat. § 609.605 subd 2. is expanded to include trespass at facilities providing transitional housing for sex trafficking victims and their children.

Section 10: The Sentencing Guidelines Commission is directed to undertake a comprehensive review to consider modifying how the Guidelines and sex offender grid address the sex trafficking crimes in Minn. Stat. § 609.322.

Section 11: Repeals Minn. Stat. § 609.324, subd. 3 (misdemeanor patrons of prostitution crimes).

The 1UE Amendment adjusts the age limits in Minn. Stat. § 609.324, subd 1.; Engaging in, hiring or agreeing to hire an individual who the actor reasonably believes to be a minor to engage in prostitution. Subd. 1 (a) has a statutory maximum of 20 years and currently applies to acts involving someone under the age of 13. That is amended to someone under the age of 14. Subd. 1 (b) has a statutory maximum of 10 years and currently applies to acts involving someone under the age of 16 but at least 13. That is amended to someone under the age of 16 but at least 14. Subd. 1 (c) has a statutory maximum of 5 years and applies to acts involving someone under the age of 18 but at least 16. That provision is unchanged.

The bill is effective August 1, 2021, and applies to crimes committed on or after that date.

Estimated Impact

Section 1: It is estimated that eliminating mitigated departures for Sex Trafficking offenses with two prior violent offenses will result in the eventual need for 10 additional prison beds.

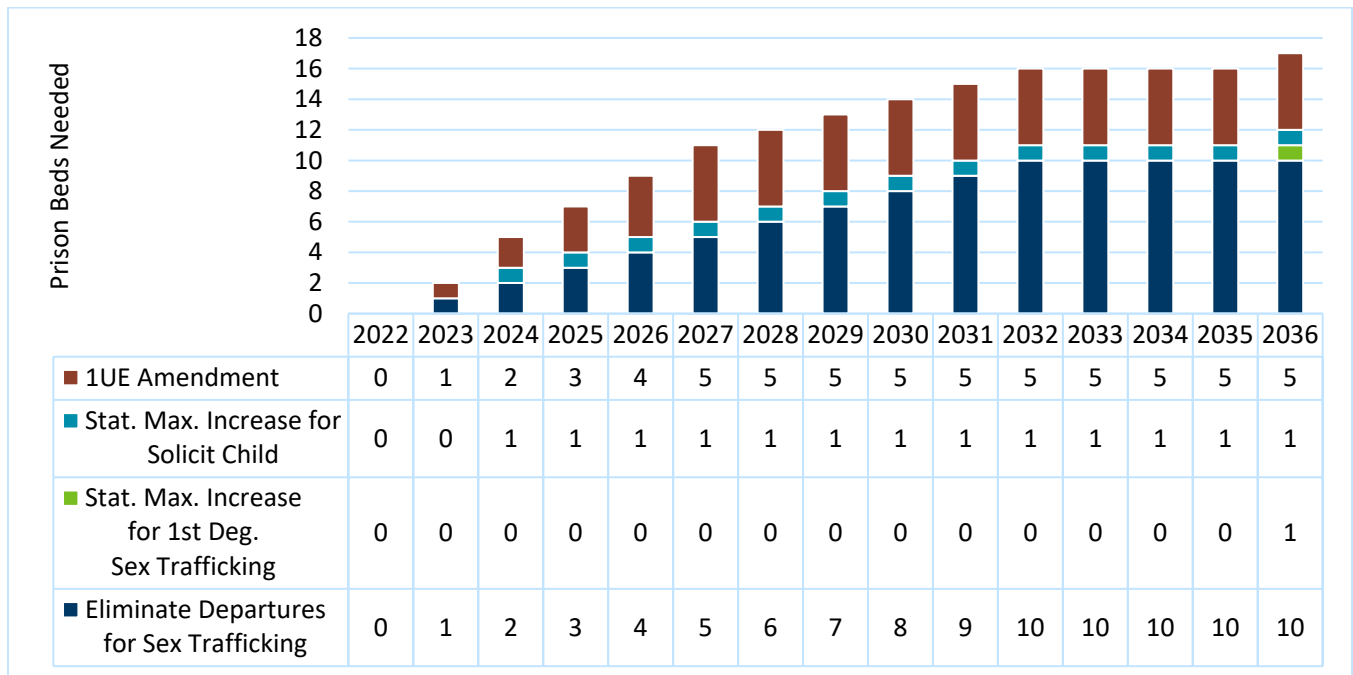
Sections 3 and 4: Two of the three offenders with statutory maximum presumptive sentences are accounted for by either the required sentence for offenders with two prior violent offenses or by a consecutive sentence that resulted in a sentence greater than 300 months. It is estimated that increases to the statutory maximums for first-degree Sex Trafficking for the other offender with a CHS of 6 or more will result in the eventual need for one additional prison bed.

Section 8: It is estimated that one offender a year will receive a sentence increase from 36 months to 60 months for Solicitation of Children to Engage in Sexual Conduct. Given that two-thirds of the sentence will be served in prison, this would result in the need for one additional prison bed. This bed would be needed in year three and every year after. The impact may be greater if, in the future, some offenders with higher criminal history scores do not receive departures.

Amendment 1UE: If one person a year receives a prison sentence of 86 months for Minn. Stat. section 609.324, subd. 1 (a), the estimated prison bed impact is 5 beds.

The total impact is projected to be 0 beds in FY2022, 2 beds in FY2023, 11 beds in FY2027, and 17 beds in FY2036, and every year after.

Figure 1. Estimated Prison Bed Increase by Fiscal Year



Current State Demographics

Table 1 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 2019); the adult prison population (as of July 1, 2019); and the general adult population (on July 1, 2019, as estimated by the U.S. Census Bureau). Table 1 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 1. Minnesota’s 2019 General Population, Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

		General Population		Felony Population		Prison Population		
		2019 Estimated Adult Population		Offenders Sentenced in 2019		2019 Adult Inmate Population		
U.S. Census Category		Number	Percent	MSGC Category	Number	Percent	Number	Percent
Male		2,144,041	49.4%	Male	13,937	80.4%	8,941	93.1%
Female		2,192,434	50.6%	Female	3,398	19.6%	666	6.9%
Race & Ethnicity	White*	3,629,537	83.7%	White	9,853	56.8%	4,427	46.1%
	Black or African American*	278,909	6.4%	Black	4,580	26.4%	3,534	36.8%
	American Indian*	66,414	1.5%	American Indian	1,492	8.6%	843	8.8%
	Hispanic**	197,548	4.6%	Hispanic**	903	5.2%	525	5.5%
	Asian*	228,242	5.3%	Asian	499	2.9%	270	2.8%
	Native Hawaiian/ Other Pacific Islander*	4,975	0.1%	Other/ Unknown***	8	0.0%	8	0.1%
Judicial District	First	608,254	14.0%	First	2,213	12.8%	825	8.6%
	Second	422,368	9.7%	Second	1,902	11.0%	1,096	11.4%
	Third	372,086	8.6%	Third	1,254	7.2%	668	7.0%
	Fourth	989,707	22.8%	Fourth	3,551	20.5%	2,646	27.5%
	Fifth	221,404	5.1%	Fifth	1,064	6.1%	479	5.0%
	Sixth	202,578	4.7%	Sixth	732	4.2%	524	5.5%
	Seventh	379,092	8.7%	Seventh	1,810	10.4%	1,075	11.2%
	Eighth	122,619	2.8%	Eighth	522	3.0%	295	3.1%
	Ninth	264,123	6.1%	Ninth	1,620	9.3%	941	9.8%
	Tenth	754,244	17.4%	Tenth	2,667	15.4%	954	9.9%
Total		4,336,475	100.0%	Total	17,335	100.0%	9,607	100.0%

Source of July 1, 2019, population estimate: U.S. Census Bureau (Sept. 2020).

*Not Hispanic, alone or in combination with one or more other races. The sum of percentages of residents in each racial or ethnic category exceeds 100 percent (101.6%) because residents of more than one race are counted in more than one category. **The table 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, 2019, 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 Prison Population

In its fiscal note, MSGC staff estimated that the bill's policy changes would require the eventual need for an additional 17 prison beds.

- With respect to the ten-bed increase caused by elimination of mitigated departures for repeat violent offenders, one might assume that, in the future, the demographic characteristics of the occupants of those prison beds will be the same as the known demographic characteristics of the people who now receive mitigated departures.
- With respect to the two-bed increase caused by increases to statutory maximums, one might assume that, in the future, the demographic characteristics of the occupants of those prison beds will be the same as the known demographic characteristics of the people whose presumptive durations are now capped by the shorter statutory maximums.
- With respect to the five-bed increase caused by moving cases involving thirteen-year-olds into a more serious offense category, one might assume that, in the future, the demographic characteristics of the occupants of those prison beds will be the same as the known demographic characteristics of the one offender sentenced in 2019 who solicited prostitution of a thirteen-year-old.

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

- **Gender:** Male (100.0%); Female (0%).
- **Race & Ethnicity:** White (9.6%); Black (90.4%); American Indian (0%); Hispanic (0%); Asian (0%).
- **Judicial District:** First (0%); Second (0%); Third (0%); Fourth (24.4%); Fifth (27.8%); Sixth (0%); Seventh (16.6%); Eighth (0%); Ninth (0%); and Tenth (31.1%).

Table 2, on page 6, shows the demographic change in the prison population that would result from the enactment of this bill, if the assumptions stated above are accurate.

Table 2. 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

Prison Population				Estimated Change in Prison Beds Needed*		Estimated Resulting Prison Population*					
MSGC Category	2019 Adult Inmate Population					Number	Percent	Number	Percent	Percent-point change relative to other categories**	Estimated resulting rate per 100,000*†
	Number	Percent	Rate per 100,000†								
Male	8,941	93.1%	417	+17.0	100.0%	8,958	93.1%		418	+0.2%	
Female	666	6.9%	30			666	6.9%		30		
Race & Ethnicity	White	4,427	46.1%	122	+1.6	9.6%	4,429	46.0%	-0.1%	122	+0.0%
	Black	3,534	36.8%	1,267	+15.4	90.4%	3,549	36.9%	+0.1%	1,273	+0.4%
	American Indian	843	8.8%	1,269			843	8.8%		1,269	
	Hispanic	525	5.5%	266			525	5.5%		266	
	Asian	270	2.8%	118			270	2.8%		118	
Judicial District	First	825	8.6%	136			825	8.6%		136	
	Second	1,096	11.4%	259			1,096	11.4%		259	
	Third	668	6.95%	180			668	6.94%		180	
	Fourth	2,646	27.5%	267	+4.1	24.4%	2,650	27.5%		268	+0.2%
	Fifth	479	5.0%	216	+4.7	27.8%	484	5.0%		218	+1.0%
	Sixth	524	5.45%	259			524	5.44%		259	
	Seventh	1,075	11.2%	284	+2.8	16.6%	1,078	11.2%		284	+0.3%
	Eighth	295	3.1%	241			295	3.1%		241	
	Ninth	941	9.8%	356			941	9.8%		356	
	Tenth	954	9.93%	126	+5.3	31.1%	959	9.97%		127	+0.6%
Total	9,607	100%	222	+17	100%	9,624	100%		222	+0.2%	

* This table’s projections assume that future offenders’ demographic characteristics will be similar to past offenders, as stated on page 5. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 adult residents, as shown on Table 1, “General Population” (2019 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 through 2019. Rates are per 100,000 Minnesota adult residents.

Estimated Adult Population

Figure 2. Minnesota Adult Residents, Estimated 2002–19, by Gender and Total

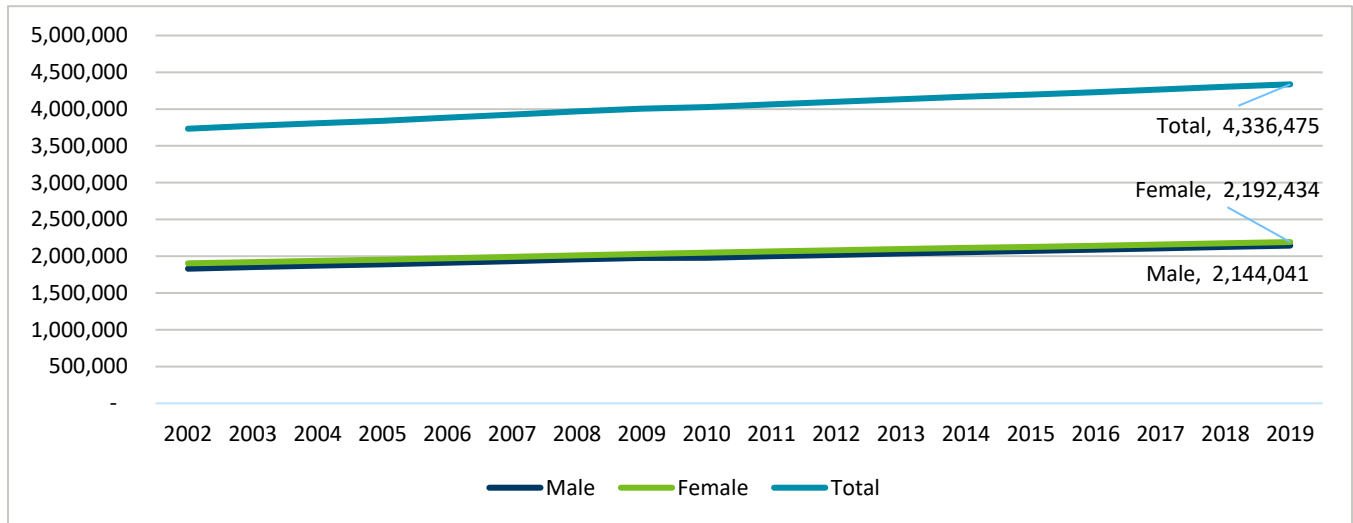


Figure 3. Minnesota Adult Residents, Estimated 2002–19, by Race and Ethnicity

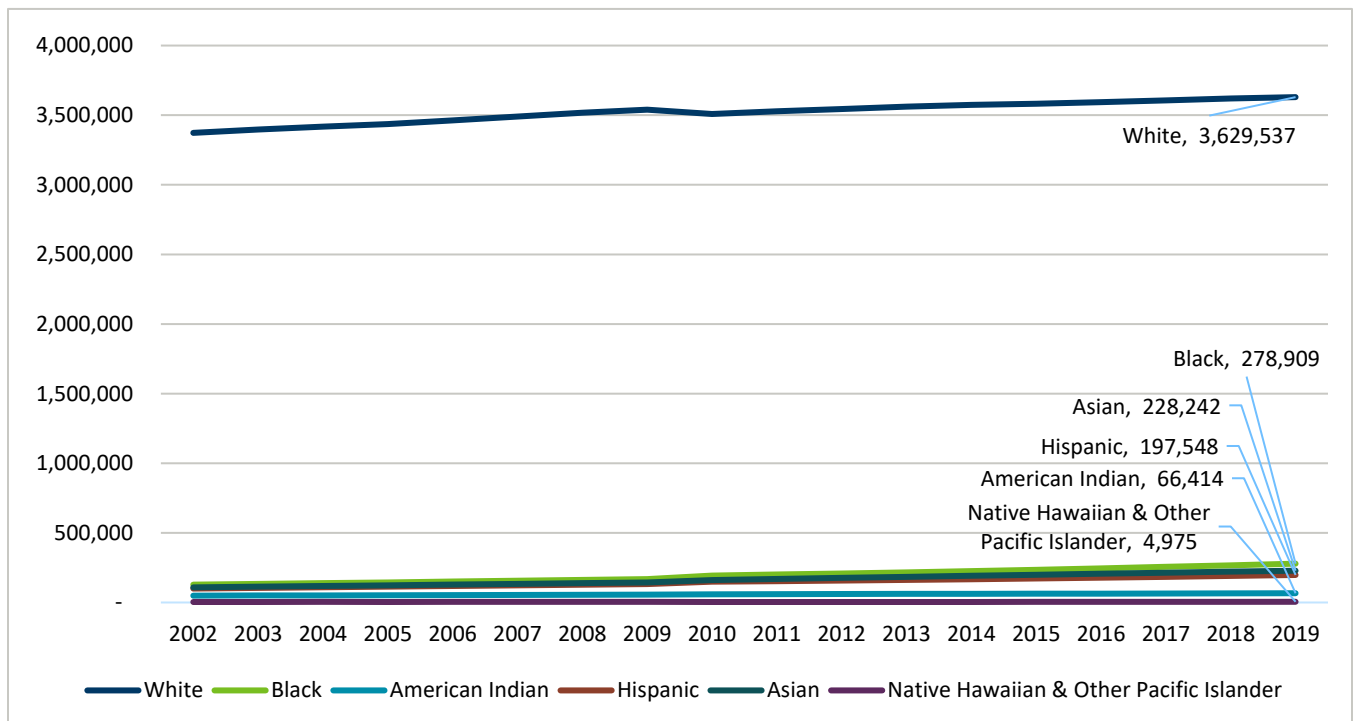
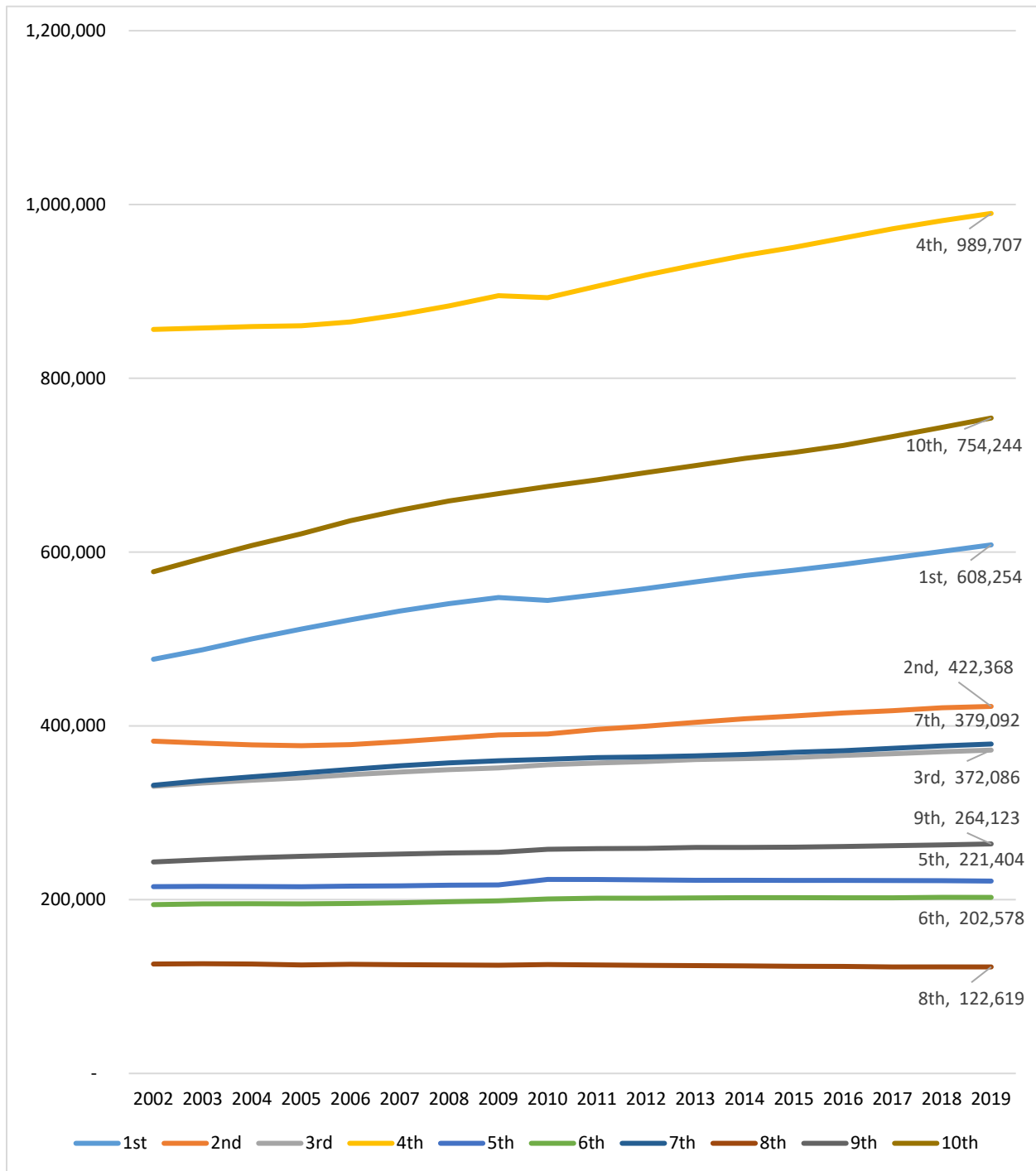


Figure 4. Minnesota Adult Residents, Estimated 2002–19, by Judicial District



Notes for Figure 2 through Figure 4: Minnesota residents age 18 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 5. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–19, by Gender and Total

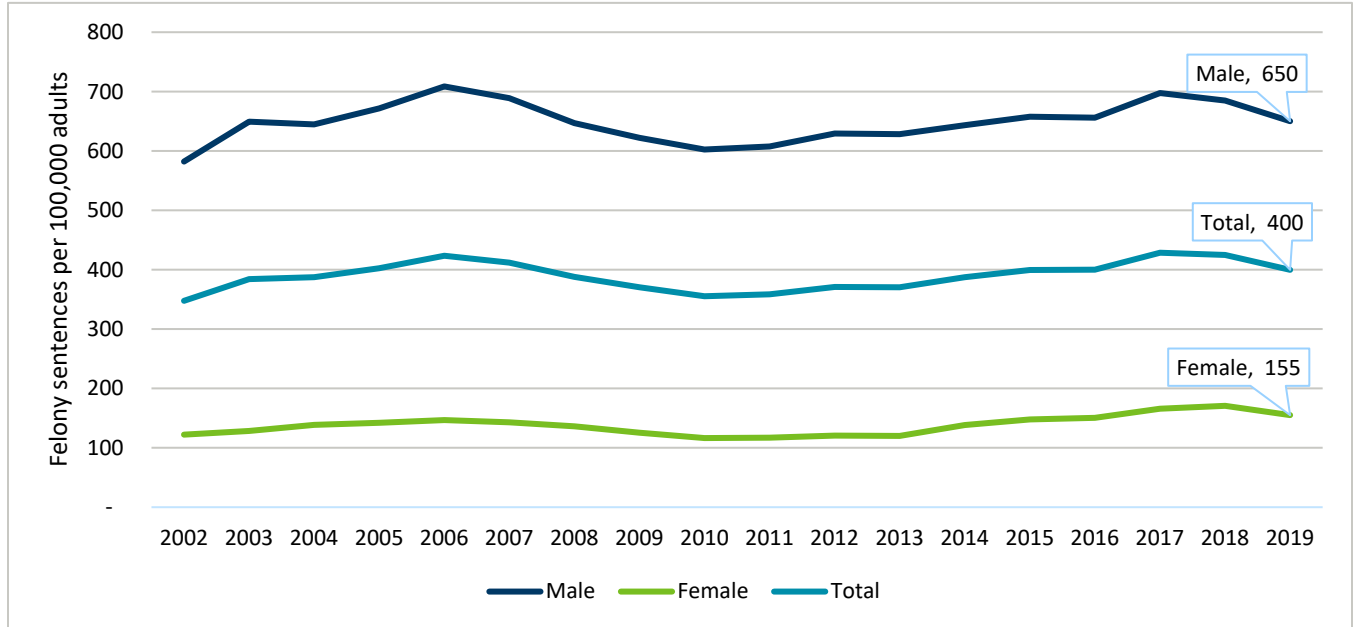


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–19, by Race and Ethnicity

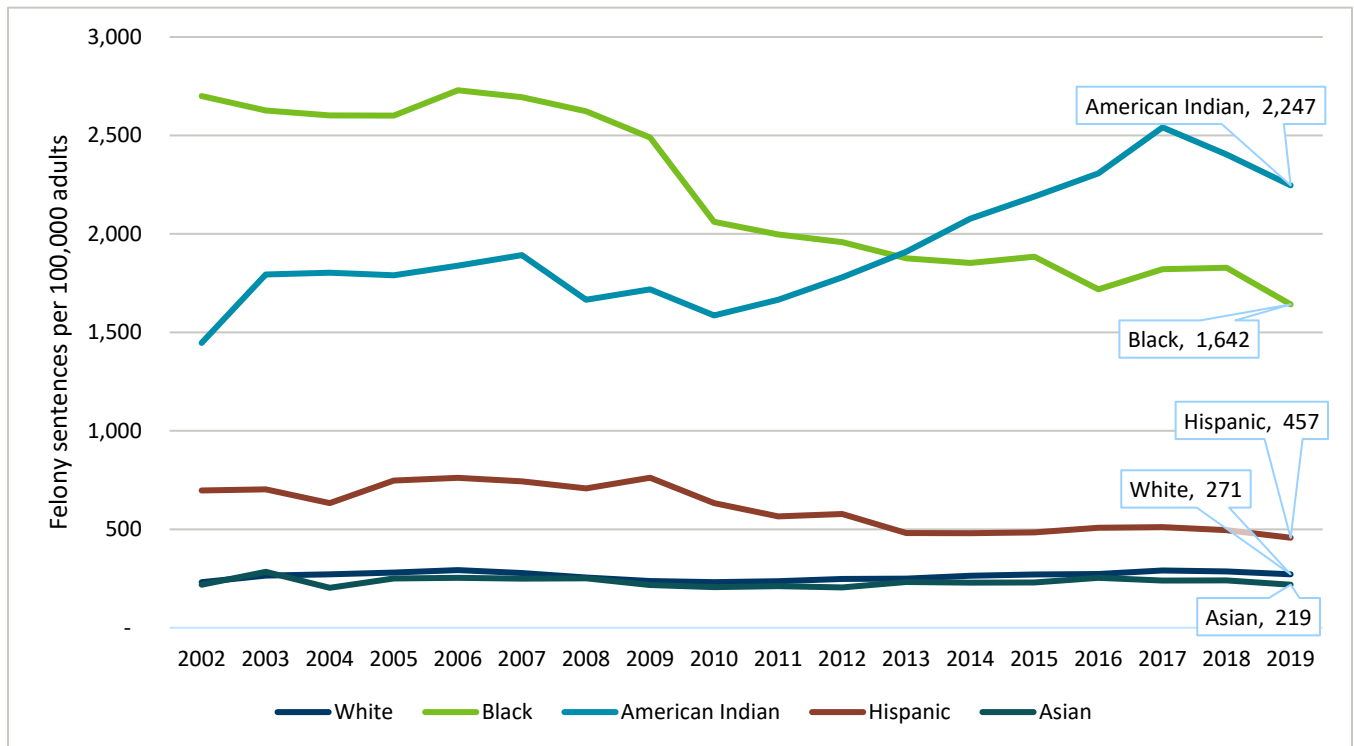
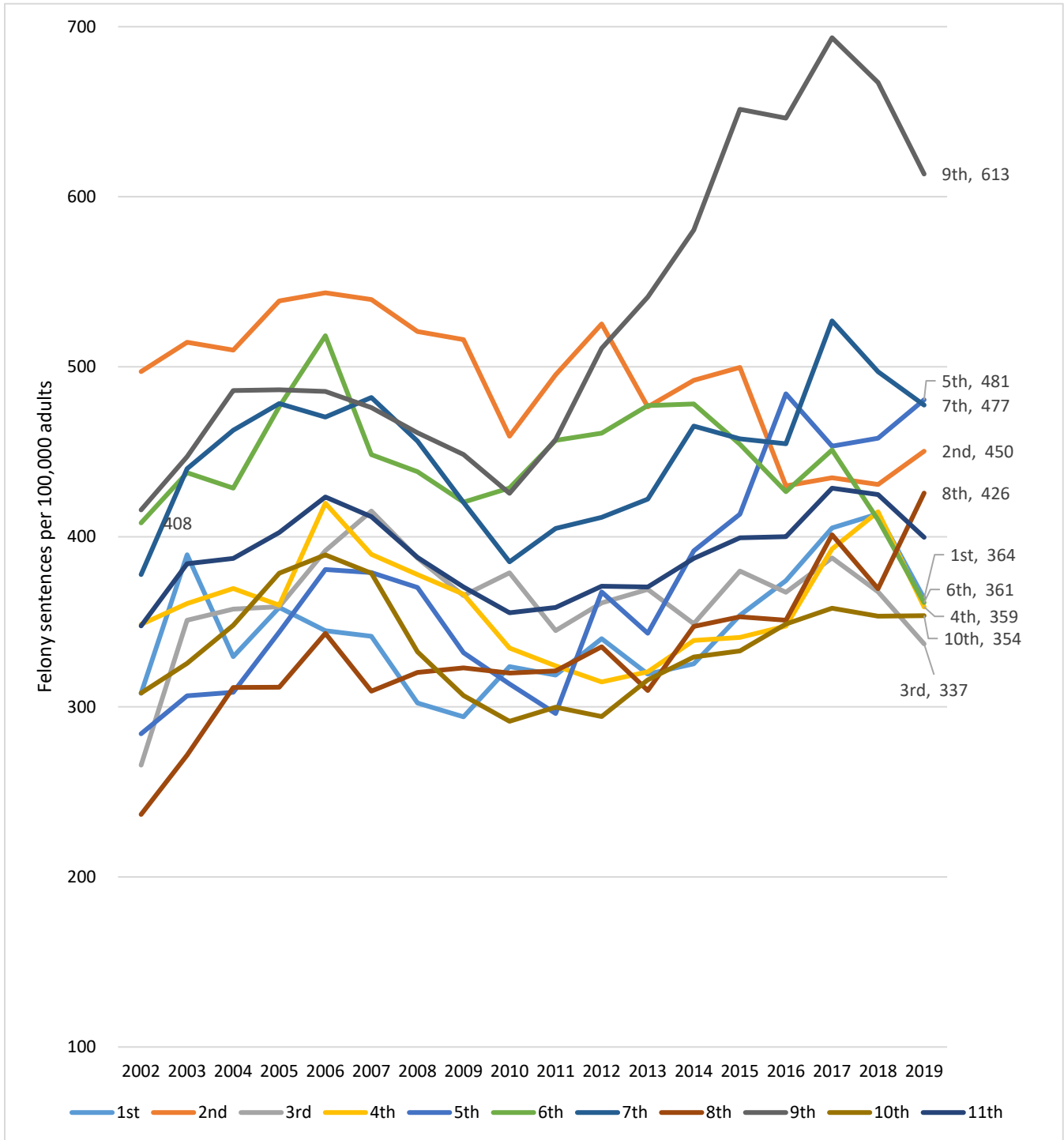


Figure 7. Felony Sentencing Rates per 100,000 Minnesota Adult Residents, 2002–19, by Judicial District



Notes for Figure 5 through Figure 7: Rates are felony offenders sentenced annually per 100,000 Minnesota residents age 18 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 8. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–19, by Gender and Total

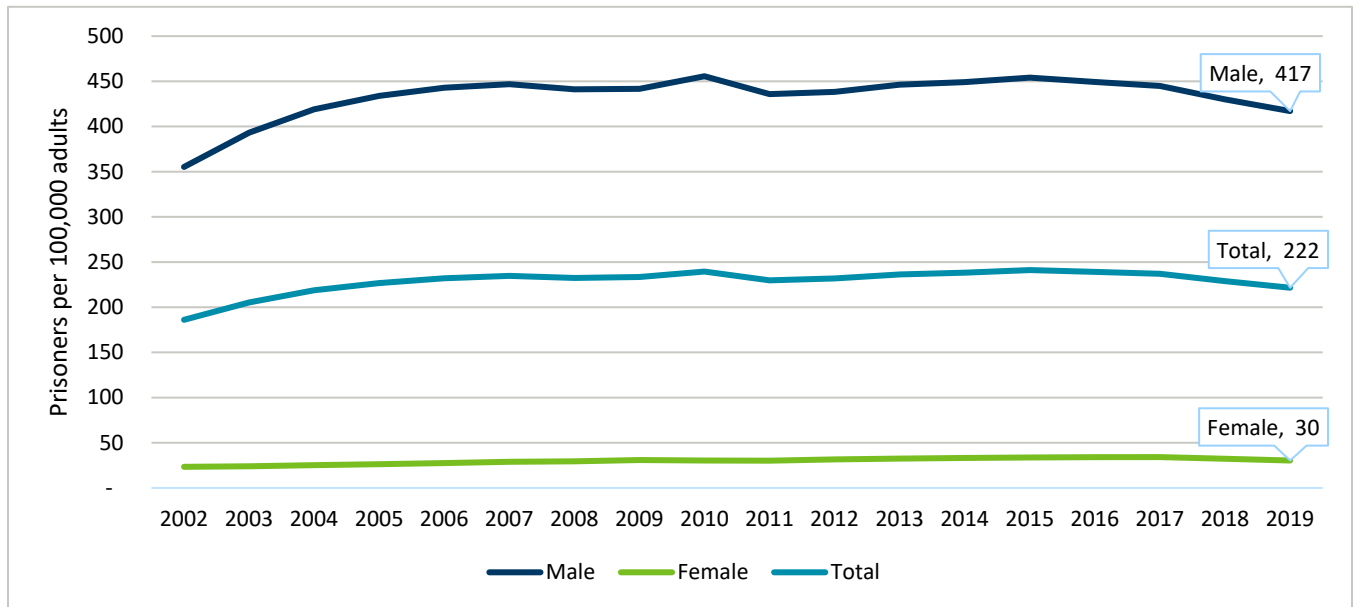


Figure 9. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–19, by Race and Ethnicity

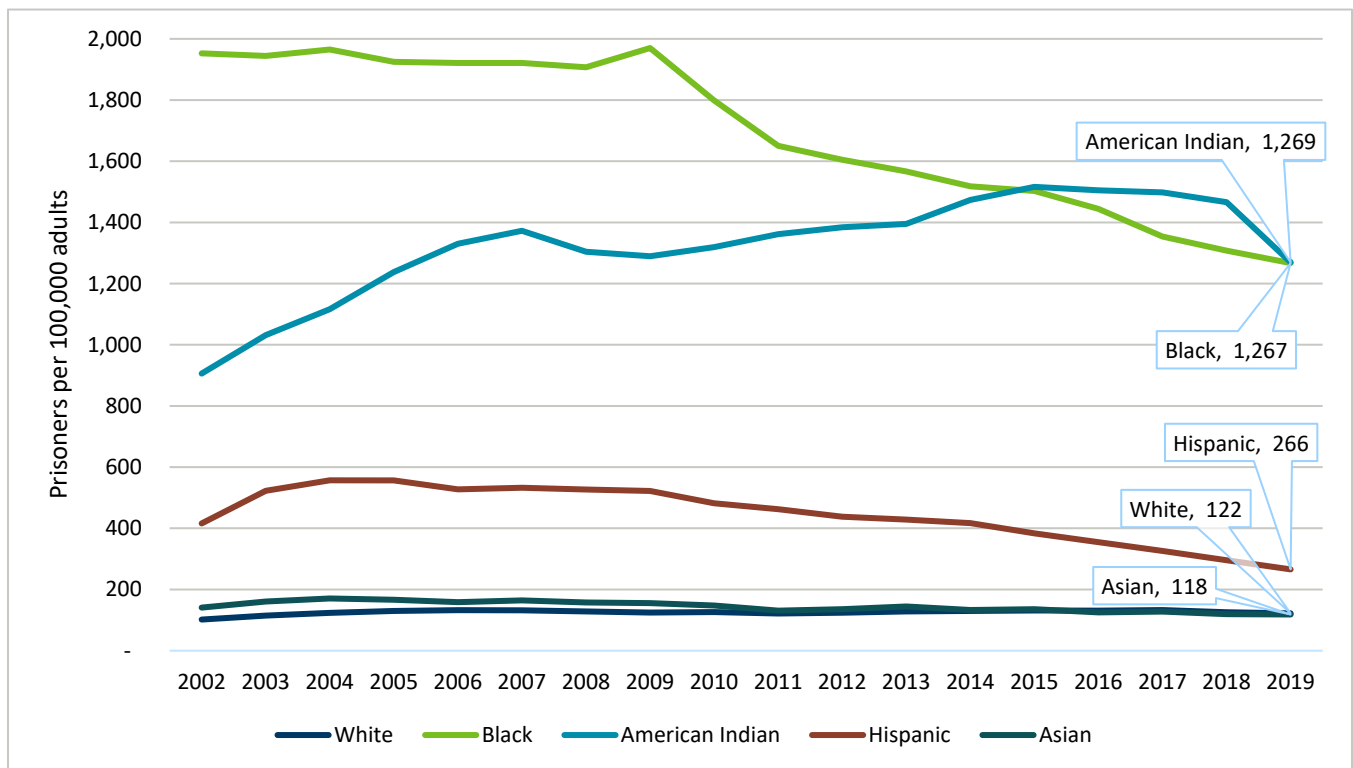
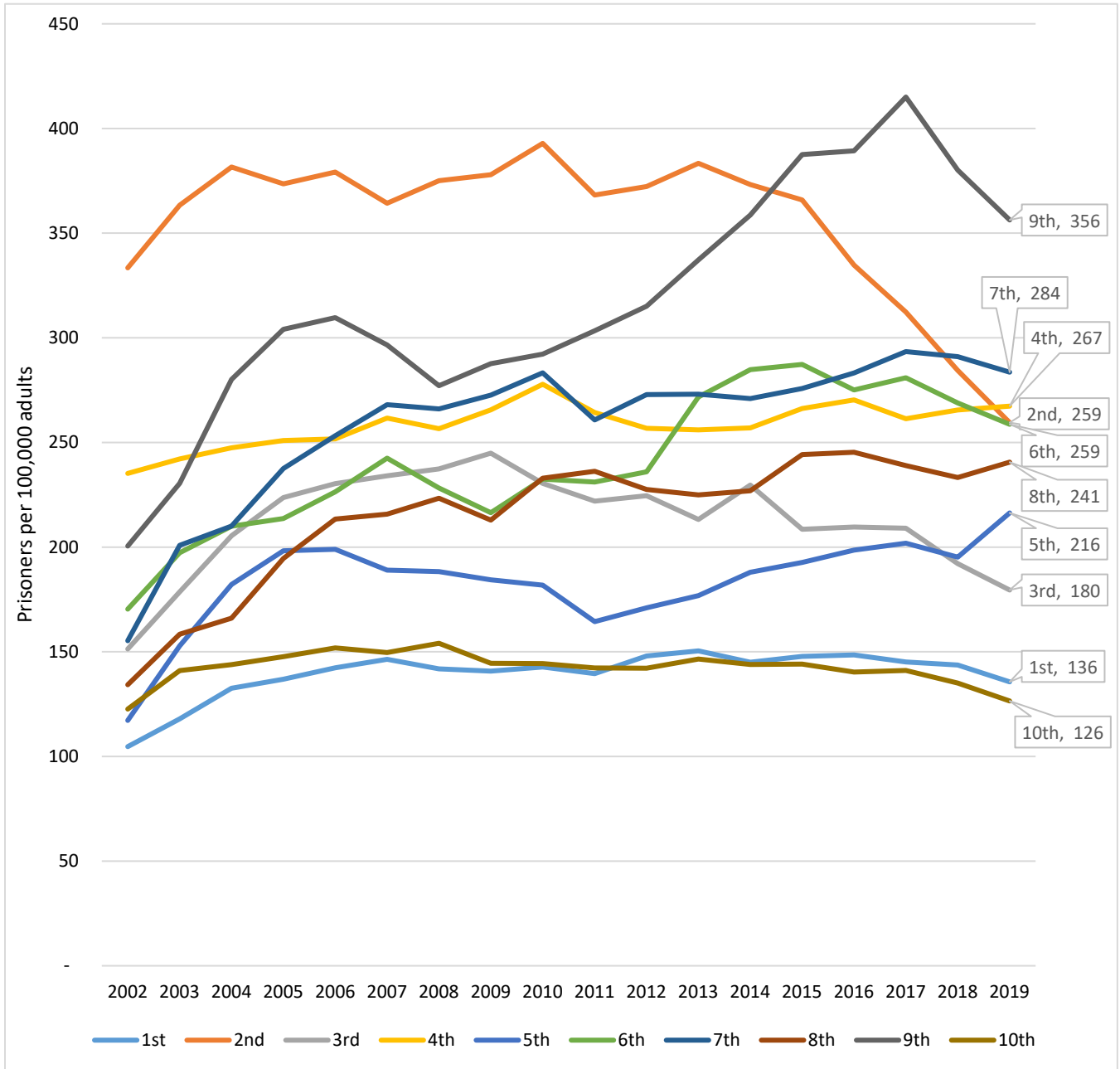


Figure 10. Imprisonment Rates per 100,000 Minnesota Adult Residents, 2002–19, by Judicial District



Notes for Figure 8 through Figure 10: Rates are prisoners on July 1 of the respective year per 100,000 Minnesota residents age 18 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.