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S 2280

Testimony from Jesse Kelley, State Affairs Manager in Criminal Justice, R Street Institute

Dear Senate Committee on Judiciary:

My name is Jesse Kelley, and I am the State Affairs Manager for Criminal Justice for the R Street Institute. The R Street Institute is a nonprofit, nonpartisan, public policy research organization focused on promoting policies that enhance free markets and limited, effective government.

I am writing to express my concern regarding, and opposition to, certain provisions in this bill, specifically Section 39-14.3-2 entitled “National criminal records check.” This section states that before being hired at a network transportation company, an individual must “undergo a national criminal records check that shall include fingerprints submitted to the Federal Bureau of Investigation ... ” and requires the individual applicant to pay for the national criminal records check. The bill also outlines specific prior offenses that would limit employment.

First, requiring fingerprinting for transportation companies – like Uber and Lyft – would make communities less safe, not more. A 2016 [study](#) from Western Carolina University found that, after Uber entered a city, there was a corresponding decrease in assaults, as well as decreases in DUIs and vehicular homicides. Yet Uber and Lyft have vacated cities that impose fingerprint checks, such as Austin, Texas, in 2016. Their absence left a city of almost 1 million people with [only 900 cabs](#). Drunk-driving incidents spiked, and riders turned to Facebook groups, where they negotiated fees for rides from strangers who underwent no background checks. The societal impact of eliminating ride-sharing services led the Texas Governor, Gregg Abbott, to sign a bill eliminating the requirement only a year later.

Second, requiring applicants to pay for the national criminal records check directly and negatively impacts low-income individuals. A national criminal background check can cost up to \$45, and for individuals with little or no income, that requirement could bar them from obtaining employment. In 2015, a [study commissioned by Uber](#) found that 24 percent of drivers said Uber was their only source of income, and 16 percent described it as their largest, but not only, source

of income. S 2280's requirement mandating that individuals pay for their own national criminal background check would effectively bar low-income individuals from employment at the outset.

Third, ride-sharing services are already performing background checks during the hiring process. For example, Lyft reviews driving histories and explores each driver's potential criminal background. This transportation network company [unequivocally states](#) that an individual is "ineligible to drive on the Lyft platform if, among other things, the background check results include: violent crime, felony, drug-related offense, sexual offense or certain theft or property damage offense cases."

Mandating additional, costly requirements for companies already engaged in the type of activity S 2280 is promoting is unnecessary. Sarfraz Maredia, a general manager at Uber, has [said](#) that "unnecessary and duplicative steps ... make it difficult for [drivers] to earn extra money and hurt our ability to ensure that riders have access to reliable and affordable transportation."

Finally, requiring fingerprinting could lead to incidental racial disparity because the federal background check system is notoriously unreliable. As a 2013 National Employment Law Project (NELP) study [revealed](#), "[Fifty] percent of the FBI's records fail to include information on the final disposition of the case ... For example, one third of felony arrests do not result in conviction and many others are reduced to misdemeanors." The report goes on to say that "African Americans are especially disadvantaged by the faulty records because people of color are consistently arrested at rates greater than their representation in the general population, and large numbers of those arrests never lead to conviction."

We ardently oppose S 2280 and implore the committee to determine that this bill's harms outweigh any potential benefits. Requiring transportation network companies to execute further background checks would decrease rider safety, increase employment barriers for low-income individuals, and ultimately heighten racial disparity in this industry.

Sincerely,

Jesse Kelley, Esq.  
State Affairs Manager, Criminal Justice  
R Street Institute