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Testimony to Texas House Committee on Transportation

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Chair Morrison, members, my name is Josiah Neeley and I am the Texas director for the R Street Institute, a nonpartisan research organization that works on issues related to the sharing economy, as well as other issues. I am here today testifying in support of H.B. 100 because of the important role ridesharing services play in keeping Texans safe.

We've heard a lot of discussion today about the use of fingerprint-based background checks for ridesharing drivers. It is important to note, however, that the FBI database used to conduct these background checks is subject to some severe limitations.

Fundamentally, the FBI's fingerprint database is not a database of convictions, but of arrests. Fingerprinting is typically done during an early phase of the criminal-justice process and about 30 percent of all arrests do not result in a conviction. This is significant, as approximately half of all records in the FBI's database do not include information about the ultimate disposition or outcome of the case.

To quote Sen. Charles Grassley, R-Iowa, chairman of the U.S. Senate Judiciary Committee: "if an employer uses the [FBI] database for hiring purposes, the records can be inaccurate and old. And, just as bad, the database includes arrest records that never resulted in a

conviction. It's unfair that an arrest—not resulting in a conviction—is included in a criminal background check.”

The use of these databases also raises privacy concerns. For example, there has been discussion of using ongoing background checks for ridesharing drivers. If that includes fingerprinting, it would mean that tens of thousands of innocent people would have their fingerprints stored long term with the FBI. In December 2016, the FBI released a privacy impact assessment, noting that the retention of fingerprints for employment purposes entails a risk of abuse and mishandling by government, as well as risks from a data breach.

I can speak to this latter possibility from personal experience. Over a decade ago, I underwent an FBI background check with fingerprinting when I worked for a federal judge. In 2015, I received a letter from the federal Office of Personnel Management noting my fingerprints had been stolen, along with those of 5.6 million others. The risk of hacking is only going to increase as fingerprinting becomes more widely used as a means of authentication.

In short, there is no evidence that fingerprint-based background checks provide a greater level of public safety than other types of background checks, and the fingerprinting system has major costs to both privacy and economic liberty.

I would be happy to answer any questions.