

A Utah lawmaker is pushing a digital privacy bill that would bar warrantless searches of data uploaded to apps or cloud platforms

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Uploading documents to Dropbox, sharing photos over Snapchat or sending videos over Marco Polo feels safe enough to many cellphone users, but civil liberties advocates say privacy laws haven't kept up with evolving technology. A bill now in the Utah House of Representatives attempts to strengthen these protections by requiring police to get a warrant before they can access electronic data shared with third parties, such as phone apps or remote storage services. But the proposal's wording is a source of concern to some state law enforcement and local prosecutors, who say it could hamper their ability to catch criminals and other lawbreakers.

Rep. Craig Hall, who's sponsoring the legislation, said he's just trying to safeguard Utahns from unreasonable searches and seizures.



"I want to make clear that the protections that we now have in the paper world are also in place for the electronic world," Hall, R-West Valley City, told a legislative panel Thursday. Hall last year ran a bill that called for modifying the state's constitution to include digital data and communications in the section that enshrines citizen rights to personal security. But his resolution — based on one that Missouri approved in 2014 — died in the House, and Hall said he hoped he'd have more luck this year by trying for a statutory change. Connor Boyack, founder of the libertarian Libertas Institute, said Utah would be a leader in electronic privacy protection if the Legislature approves Hall's proposal. In the pre-digital world, the U.S. Supreme Court held that people relinquish some reasonable expectation of privacy when they share their personal information with a third party, such as a bank, Boyack said. But, with the dawn of computer and cellphone technology, data-sharing is less of a choice than a fact of life. So Hall's bill would require police to obtain a search warrant before seizing any electronic data that a person has shared with a third party, whether it's a Google Drive or an app.

When questioned, Boyack said he doesn't expect the proposal would handcuff criminal investigations.

"All we're saying is, get a warrant," he told the House Judiciary Committee during a bill hearing Thursday

The American Civil Liberties Union of Utah is also backing the measure, which is needed as technology advances faster than the courts can keep up, said Marina Lowe, the group's legislative and policy counsel.

However, representatives from the Utah Attorney General's Office spoke out with concerns about substitute bill language that Hall released shortly before the hearing began.

"The substitute would cripple our ability to investigate internet crimes against children," David Carlson, the office's justice director said. "Commerce has moved to the internet and crime has moved to the internet. ... The way this bill is written would hamper investigators' and prosecutors' ability to investigate crime on the internet."

While Boyack said the bill is aimed at criminal proceedings, speakers from the Attorney General's Office said the substitute could also inhibit civil-enforcement actions, such as investigations into consumer-protection violations.

A representative of the Utah County and District Attorneys Association said she opposed both the original measure and its substitute, saying they would have sweeping unintended consequences and could interfere with routine government operations.

Several members of the judiciary committee expressed support for the bill in concept and a desire to get it passed, but because of the conflicting testimony, the panel on Thursday voted to hold the measure for further discussion.