

Proposal to ban warrantless digital searches wins committee approval

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FILE - In this Tuesday, Jan. 23, 2018, photo, Republican Rep. Craig Hall, of West Valley City, looks on from the floor of the Utah House of Representatives, in Salt Lake City. HB57, which is sponsored by Hall, would extend Fourth Amendment protections to personal information and/or documents stored in remote computer servers, commonly referred to as "the cloud." The proposal earned unanimous support from a Utah legislative committee Tuesday afternoon.

SALT LAKE CITY — A proposal that would extend Fourth Amendment protections to personal information and/or documents stored in remote computer servers, commonly referred to as "the cloud," earned unanimous support from a Utah legislative committee Tuesday afternoon. Rep. Craig Hall, R-West Valley City, sponsor of [HB57](#), said he's been working with stakeholders including the American Civil Liberties Union of Utah, Libertas Institute and law enforcement to address various issues and concerns in the bill.



Libertas President Connor Boyack told members of the House Judiciary Standing Committee that the proposal, now in its third iteration, establishes new definitions that stipulate what digital information can be accessed via a subpoena versus information, if sought by law enforcement, that will require a warrant.

Boyack said, under the proposal, subscriber information held by a third-party provider — like a person's name, how long they've had an account and other basic user data — could be accessed through the direction of a subpoena, but access to transactional data, documents, etc. would require the higher bar of a warrant. According to an assessment from the ACLU of Utah, Hall's bill "establishes that a person who transmits data to a third-party (like a cellphone provider or cloud-based server) maintains ownership of their data and is entitled to a reasonable expectation of privacy." The ACLU also notes [HB57](#), if passed into law, would extend some of the same protections established by the U.S. Supreme Court in last year's [Carpenter v. U.S.](#) decision — which ruled the government must obtain a search warrant to collect location information collected by cellphone towers — to all digital information stored by third parties.

Jeff Gray, search and seizure section director for the Utah Attorney General's Office, said his office had participated in discussions with the bill's sponsor and was in support of the effort.

"We have had extensive negotiations and we're satisfied with what we've been able to come up with," Gray said. "I think we've addressed every possible concern we've had."

HB57 now moves to the House for consideration by the full body.