

Government's use of facial recognition software regulated under bill headed to governor

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Any government entity that uses someone's photo in conjunction with facial recognition technology [would be required to notify that person about how their images could be used](#) under a bill that won final passage Thursday in the Utah House of Representatives.

That proposal comes after [2019 reports that federal law enforcement had used facial recognition technology](#) to scan thousands of photos in the state's driver license database for suspects [raised alarm for many lawmakers](#). And while the state also routinely [scans photos in the Driver License Division's database](#) to identify criminals and prevent fraud, there's currently nothing in Utah code that regulates the use of the technology.

Rep. Travis Seegmiller, R-St. George and the bill's House sponsor, said during a debate of the proposal this week that facial recognition is a "powerful" tool that poses "potential risks to our constitutional rights — and therefore it must be used very carefully."

But the technology is also "critical" to several law enforcement aims, he said, including efforts to shut down identity theft and ensuring people who apply for a driver license don't already have one under a different name.

This bill, he said, recognizes both sides of that coin and "puts guardrails in place for this kind of technology without going too far."

[SB34](#), which received final passage Thursday, largely codifies the Department of Public Safety's existing practices around use of the technology, including the framework through which law enforcement agencies can tap into the database. Under the bill, they're required to submit a written request for a facial recognition comparison that includes a statement of the specific crime they're investigating and a "factual narrative" establishing a "fair probability" the person is connected with the crime.

The bill states that a government employee can only comply with requests made for the purposes of investigating a felony, violent crime or a threat to human life; or to identify a person who is dead, incapacitated, at risk or otherwise unable to provide his or her identity to law enforcement.

A [substitute version of the bill that was proposed but never adopted](#) would have expanded the circumstances under which the government could use facial recognition technology to include misdemeanor fraud investigations. But Seegmiller said that version of the proposal was "found to be untenable."

While the bill requires notification about the way their images will be used, it doesn't offer Utahns the option to opt out of facial recognition. And it regulates only the government's application of this technology, not addressing systems available free of charge, like social media websites or other [systems consumers use for their own private purposes](#).

The bill does seek to address a persistent problem with facial recognition: it's best at identifying white men, and not as good at identifying people from other groups. It would require expanded training for employees who use the database and mandate that two people verify a possible match. During committee hearings, the American Civil Liberties Union of Utah and the libertarian-leaning Libertas Institute have been supportive of the bill, but have argued it doesn't go far enough. Seegmiller acknowledged that it's "not a perfect bill" but said it does "what we're able to achieve agreement on."

The bill passed unanimously in the House on Thursday after previously passing in the Senate with [a 24-3 vote](#). It now moves to the governor's desk for his signature or veto.