

Plan to strip H-1B visa holders' spouses of right to work hits final stage

[Ethan Baron](#)

The Mercury News, August 23, 2018

A policy change to strip spouses of H-1B visa holders of their right to work has entered its final review, with senior leaders in the Department of Homeland Security moving toward approval, according to a new court filing.

The proposed rule change was set in motion by President Donald Trump's "Buy American and Hire American" executive order, according to Homeland Security.



Those affected hold the H-4 visa, a work permit for spouses and under-21 children of H-1B workers. It remains unclear if all spouses of H-1B holders will be banned from working, as Homeland Security has only said "certain H-4 spouses" will be targeted by the new rule. Because not all H-4 holders are allowed to work, it appears that "certain H-4 spouses" may refer to all who are work-eligible.

Controversy over the H-4 has spun off from the furor over the H-1B, which is relied upon heavily by Silicon Valley technology companies but attacked by critics over reported abuses.

Get tech news in your inbox weekday mornings. [Sign up](#) for the free Good Morning Silicon Valley newsletter.

Homeland Security, which had earlier said it would make the change in February, filed an update in a federal court case on Monday to inform the court that the new rule was in the final "clearance review" and that the department's intention to impose the ban was unchanged.

Earlier this year, University of Tennessee researchers estimated that 100,000 H-1B spouses would lose their jobs as a result of the new policy, 93 percent of them women from India "who held successful jobs and often advanced degrees in their native country before coming to the U.S.A." H-1B holders whose spouses aren't able to work may leave the U.S., the researchers said.

FWD.US, a tech lobby group co-founded by Facebook CEO Mark Zuckerberg and Microsoft founder Bill Gates and others, said in April that the ban would remove tens of thousands of taxpayers from the workforce and could hurt the U.S. economy.

In March, six Bay Area members of Congress — Democrats Anna Eshoo, Zoe Lofgren, Ro Khanna, Mark DeSaulnier, Barbara Lee and Jerry McNerney — signed onto a letter urging Homeland Security to reconsider the work ban, arguing it would “create significant uncertainty and financial hardship for many highly skilled professionals who are vital to our economy.”

However, the Center for Immigration Studies, which lobbies for reduced immigration, has called the Trump administration’s changes to the H-1B system, including the planned spousal work ban, “small but important steps” toward reforming a system “riddled with abuse and fraud.”

Homeland Security filed the update in the U.S. Court of Appeals in Washington, D.C., in a lawsuit against the department by Save Jobs USA, which sued to permanently ban the department from allowing H-4 visa holders to work. Save Jobs said in court filings that it is made up of workers who had been employed by energy utility Southern California Edison “until they were replaced by foreign workers imported on H1B guest worker visas.” Edison, along with Disney and UC San Francisco, are [reported to have forced](#) tech workers to train their H-1B-carrying replacements.

The three members of Save Jobs identified in the lawsuit each allege they were given notice by Edison of their firings, then had to train their H-1B replacements from Indian outsourcing giant Tata or they would have been denied severance compensation and eligibility for unemployment benefits. They are represented by lawyer John Miano, a fellow at the Center for Immigration Studies.