



Committee: PHED
Committee Review: At a future date
Staff: Christine Wellons, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #WindowSafety, #ASaferView4Kids

AGENDA ITEM #9
January 12, 2021
Public Hearing

SUBJECT

Bill 51-20, Landlord-Tenant Relations – Window Guards

Lead Sponsor: Council President Hucker

Co-Sponsors: Council Vice President Albornoz and Councilmembers Navarro, Rice, Riemer, Katz and Jawando

EXPECTED ATTENDEES

Public speakers

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Public Hearing

DESCRIPTION/ISSUE

Bill 51-20, Landlord-Tenant Relations – Window Guards would:

- (1) require the installation and maintenance of window guards in certain rental housing;
- (2) require certain notifications to tenants;
- (3) add lease requirements in certain circumstances;
- (4) provide for the enforcement of window guard requirements; and
- (5) generally amend laws regarding landlord-tenant relations.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

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M E M O R A N D U M

January 7, 2021

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Bill 51-20, Landlord-Tenant Relations – Window Guards

PURPOSE: Public Hearing – no Council votes required

Bill 51-20, Landlord-Tenant Relations – Window Guards, sponsored by Lead Sponsor Council President Hucker and Co-Sponsors Council Vice President Albornoz and Councilmembers Navarro, Rice, Riemer, Katz and Jawando, was introduced on December 8, 2020.¹ A Planning, Housing and Economic Development Committee worksession is tentatively scheduled for March 1, 2021 at 1:30 p.m.

Bill 51-20 would:

- (1) require the installation and maintenance of window guards in certain rental housing;
- (2) require certain notifications to tenants;
- (3) add lease requirements in certain circumstances;
- (4) provide for the enforcement of window guard requirements; and
- (5) generally amend laws regarding landlord-tenant relations.

BACKGROUND

Tragically, multiple children in the County have died from falling out of apartment windows in recent years. The purpose of Bill 51-20 is to prevent future tragedies of this nature by requiring the installation of window guards in certain multiple dwellings. New York City has a similar law requiring window guards to protect children.

SPECIFICS OF THE BILL

Bill 51-20 would require a landlord of a multifamily dwelling to install and maintain a window guard in each window of a habitable room if: (1) a child of age 10 or younger occupies the dwelling; or (2) a tenant of the dwelling requests in writing the installation of window guards.

The Department of Housing and Community Affairs (DHCA) would be required to set minimum safety standards for the window guards. In addition, DHCA would enforce the window guard requirements.

¹#WindowSafety, #ASaferView4Kids

Under the bill, a landlord would be required to include the window guard requirements within a lease or an addendum to the lease. The landlord would not be permitted to charge a tenant for the installation or maintenance of window guards.

This packet contains:

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Bill No. 51-20
Concerning: Landlord-Tenant Relations
- Window Guards
Revised: 12/03/2020 Draft No. 3
Introduced: December 8, 2020
Expires: June 8, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Hucker
Co-Sponsors: Council Vice President Albornoz and Councilmembers Navarro, Rice, Riemer, Katz
and Jawando

AN ACT to:

- (1) require the installation and maintenance of window guards in certain rental housing;
- (2) require certain notifications to tenants;
- (3) add lease requirements in certain circumstances;
- (4) provide for the enforcement of window guard requirements; and
- (5) generally amend laws regarding landlord-tenant relations.

By amending

Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-30

By adding

Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-35D

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

- 28 (3) A window guard installed under paragraph (2) must meet
 29 minimum safety standards prescribed by the Director.
- 30 (4) The Department may adopt method (2) regulations to implement
 31 the requirements of this section.
- 32 (5) The Director should educate landlords and tenants of multifamily
 33 dwelling units about the requirements of this section.
- 34 (c) Responsibility of tenants and other persons. A person must not:
- 35 (1) obstruct or interfere with the installation of a window guard
 36 required under this section; or
- 37 (2) remove or disable a window guard required under this section.
- 38 (d) Notification to tenants; lease requirements.
- 39 (1) The landlord of a multifamily dwelling unit must notify the
 40 tenant of the unit about the requirements under this section.
- 41 (2) The notification under paragraph (1) must be in writing and must
 42 be provided to the tenant in the form and manner prescribed by
 43 the Director.
- 44 (3) The landlord:
- 45 (A) must include in the lease, or an addendum to the lease, the
 46 requirements of this section; and
- 47 (B) must not charge the tenant for the installation or
 48 maintenance of a window guard under this section.
- 49 (e) Penalties. A violation of this section is a Class A violation under
 50 Section 29-8.

LEGISLATIVE REQUEST REPORT

Bill 51-20

Landlord-Tenant Relations – Window Guards

- DESCRIPTION:** Bill 51-20 would:
- (1) require the installation and maintenance of window guards in certain rental housing;
 - (2) require certain notifications to tenants;
 - (3) add lease requirements in certain circumstances;
 - (4) provide for the enforcement of window guard requirements; and
 - (5) generally amend laws regarding landlord-tenant relations.
- PROBLEM:** Lack of adequate safety of windows in certain multifamily dwelling units
- GOALS AND OBJECTIVES:** Require the installation of window guards to protect children
- COORDINATION:** DHCA, DPS
- FISCAL IMPACT:** OMB
- ECONOMIC IMPACT:** OLO
- EVALUATION:** To be done.
- EXPERIENCE ELSEWHERE:** New York City
- SOURCE OF INFORMATION:** Christine Wellons, Legislative Attorney
- APPLICATION WITHIN MUNICIPALITIES:** Variable
- PENALTIES:** Sections 26-15 and 26-16

Economic Impact Statement

Office of Legislative Oversight

BILL 51-20 Landlord-Tenant Relations – Window Guards

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 51-20 would create short-term costs for landlords. While the costs would be partially offset by benefits to certain businesses and workers, OLO anticipates Bill 51-20 would have a net negative economic impact on the County.

BACKGROUND

If enacted, Bill 51-20 would require landlords of multifamily dwelling units to install and maintain window guards (i.e., physical barriers attached to windows to prevent occupants from falling out) in every unit where a child of age 10 or younger occupies the dwelling or at the request of a tenant.¹ However, landlords would not be required to install window guards to ground-floor windows or windows in which the guard would cause violations of fire safety or egress requirements.² Landlords would be required to notify tenants about the requirement and prohibited from charging tenants for the installation and maintenance of the window guards.³ The Department of Housing and Community Affairs (DHCA) would be required to establish the safety standards for the window guards and responsible for enforcement. Violations of the requirements would be classified as Class A violations under Section 29-8.⁴

Analysts from Montgomery County Planning and OLO estimate that between 5,000 and 6,000 rental apartment units above the ground floor are leased by households that have a child under the age of 10. The majority of rental units that would require window guard installations—approximately 75%—would be in low-rise buildings. The estimated number of rental apartment units is based on the number of Montgomery County Public School (MCPS) elementary school children known to live in rental apartments. That known number of children was manipulated to arrive at an estimate of all children below the age of 10 in rental units by:

- Using Census data to adjust from total children to households that contain children.
- Using CoStar data to estimate the number of low-rise apartment buildings that are on a ground floor, and thus to which this bill is not applicable.
- Using Census data to estimate the number of toddlers and infants who are too young to attend public school but live in rental apartment buildings.

This process indicates that there are between 7,000 and 8,000 rental apartment units above the ground floor that are leased by households that have children under the age of 10 throughout the entire County. These estimates must be adjusted to reflect geographic exemptions from the Bill 51-20. In particular, the window guard requirement would not apply to municipalities, such

¹ Montgomery County Council, Bill 51-20, Landlord-Tenant Relations – Window Guards, Introduced on December 8, 2020, 1 and 2. See bill in Introduction Staff Report, [https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2689_1_12108_Bi](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2689_1_12108_Bi%2051-2020%20Introduction%2020201208.pdf)

² Ibid.

³ Ibid, 3.

⁴ For details on Class A violations, see Montgomery County Code, Section 29-8, Enforcement procedure, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-14663.

Economic Impact Statement

Office of Legislative Oversight

as Rockville and Gaithersburg, that have not opted into Chapter 29 of the Montgomery County Code. Using the proportion of units subject to the Department of Housing and Community Affairs (DHCA) enforcement to the total number of rental units in the County (approximately 74%), analysts arrived at the estimate—between 5,000 and 6,000—of the number of renter households/rental units (assuming one household per unit) that would be affected by Bill 51-20.

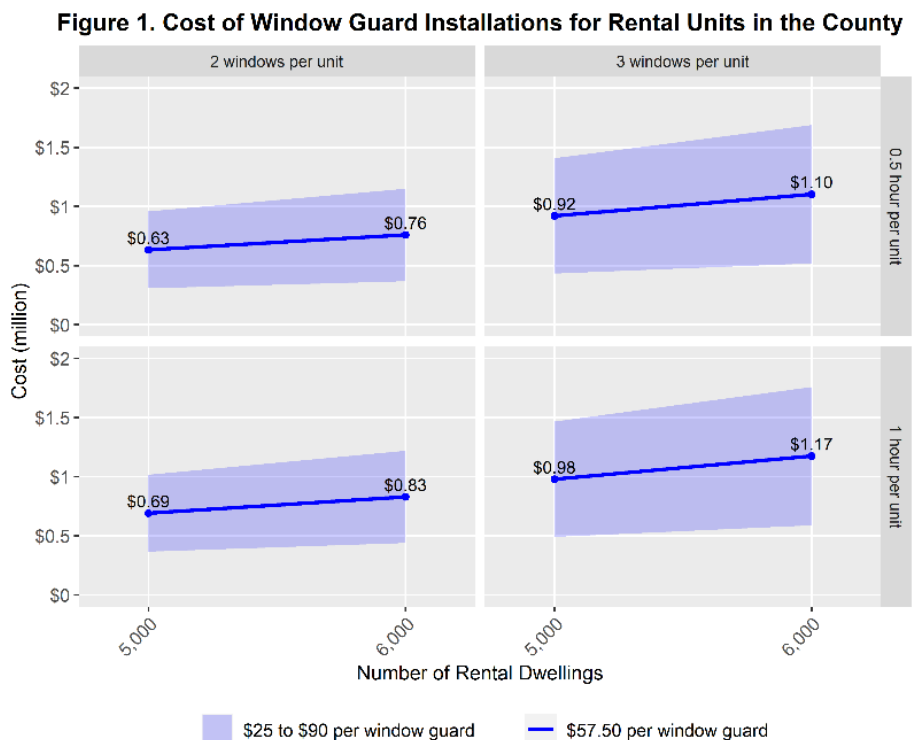
METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

The economic impacts of enacting Bill 51-20 would occur through creating economic costs for landlords of affected units. OLO determined a forecast range for installing the window guards. The range is based on the number of renter households with children (between 5,000 and 6,000) and the following assumptions:

- **Number of Windows Per Unit:** A review of floor plans for a (non-random) sample of rental units in the County suggests that an average of 2 or 3 windows per dwelling unit may require window guard installation.
- **Price Per Window Guard:** A review of “window guards for children” on Amazon indicated that depending on length, width, and other specifications, the range of possible prices for each window guard is between \$25 and \$90, with a midpoint of \$57.50.
- **Labor Cost Per Unit:** Occupational wage estimates from the Maryland Department of Labor indicate that the median hourly wage for maintenance and repair workers in 2019 was \$23.13.⁵ To install the window guards, OLO assumes that it would take 1 hour per dwelling unit at a labor cost of \$23.13 or 0.5 hours at a labor cost of \$11.57.

Figure 1 presents separate estimates of the total cost of installing window guards in 5,000 and 6,000 dwelling units, based on the number of windows and labor hours assumed in each model. As indicated in the figure, the total cost of installation at \$57.50 per window guard is projected to range between \$630,000 to \$1,170,000, depending on the number of dwelling units that require window guards, windows that require covering, and labor hours needed to perform the installations.

There are several factors that create uncertainty around the forecasted range of costs. First, the average number of windows that would require window guards would depend on how many windows in the affected dwelling units that are exempt from the regulation due to fire safety or egress requirements. Second, the average price of window



⁵ Maryland Department of Labor, Maryland Occupational Employment and Wage Estimates 2019, <https://www.dllr.state.md.us/lmi/wages/2415001007/49-9071.htm>.

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Office of Legislative Oversight

guards may depend on bulk purchasing by landlords, supply disruptions caused by the Covid-19 pandemic, or other factors. Third, the average labor cost associated with installing the window guards would depend on how many landlords rely on in-house maintenance staff on salary or outside labor paid for on an hourly basis.

VARIABLES

The primary variables that would affect the economic impacts of Bill 51-20 are:

- Number of dwelling units that require window guards;
- Average number of windows per dwelling unit;
- Average price of window guards;
- Percentage of window guards purchased by local distributors;
- Average labor costs; and
- Percentage of costs passed onto tenants.

IMPACTS

WORKFORCE ▪ **TAXATION POLICY** ▪ **PROPERTY VALUES** ▪ **INCOMES** ▪ **OPERATING COSTS** ▪ **PRIVATE SECTOR CAPITAL INVESTMENT** ▪ **ECONOMIC DEVELOPMENT** ▪ **COMPETITIVENESS**

Businesses, Non-Profits, Other Private Organizations

OLO believes that Bill 51-20 would have negative economic impacts on the private organizations that own and manage rental properties in the County.⁶ The estimated \$630,000 to \$1,170,000 in total costs would be distributed among the owners of rental properties. Because approximately 75% of renter households with children are in low-rise apartment buildings, the total costs would disproportionately fall on owners of these buildings, relative to owners of high-rise rental properties. These costs would increase operating costs for owners of rental properties at the time of purchase and installation of window guards. Holding all else equal, the increase in operating costs would reduce business incomes. While Bill 51-20 would not allow landlords to charge tenants for the window guard installations, the change in law could not prevent landlords from passing the cost onto tenants in the form of higher rents. The extent to which landlords could do so would mitigate the increase in operating costs and loss of income.

The overall economic impact to the County would be *modestly* offset by gains to local businesses that would install and distribute windows. The offset would be modest because all manufacturers and some distributors of the window guards purchased by landlords would be based outside the County and some portion of the properties would rely on their own maintenance staff for the installation of window guards, as opposed to contracting out to third-party businesses. For these reasons, OLO believes Bill 51-20 would have a net negative impact on private organizations in the County.

OLO does not expect Bill 51-20 to have impacts on the Council's other priority indicators, particularly taxation policy, property values, private sector capital investment, economic development, or competitiveness.

⁶ For the Council's priority indicators, see Montgomery County Council, Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments, Enacted on July 30, 2019, Montgomery County, Maryland, 3.

Economic Impact Statement

Office of Legislative Oversight

Residents

OLO believes that Bill 51-20 would have negligible economic impacts on renter households in the County. Renters would incur a portion of the costs from installing the window guards, if landlords pass down some of or all the costs in the form of higher rents. The costs would be negligible even if landlords distribute the entire costs to all tenants in their properties over the mid-term, meaning after the expiration of current leases and signing of new leases. To illustrate, given that 75% of renter households with children are in low-rise properties, OLO assumes that owners of low-rise buildings would incur 75% of the total costs presented in **Figure 1** above. If these owners were to eventually pass on these costs to renters in their units (44,163 units in low-rise buildings in the areas affected by the bill),⁷ the total per unit rental increase would range from \$11 to \$20. When distributed over a year-long lease, the monthly rent increase would be between \$0.92 and \$1.67. Based on these assumptions, rent increases would be even smaller for units in high-rise properties.

OLO does not believe Bill 51-20 would impact residents in terms of the Council's other priority indicators.

QUESTIONS FOR CONSIDERATION

OLO has recently produced economic impact statements for three bills (Expedited Bill 50-20, Bill 51-20, and Bill 52-20) related to rental housing and landlord responsibilities. All three are likely to have a negative economic impact on landlords. Should the Council desire more economic analysis, OLO suggests conducting an examination of the aggregate economic impact of these bills.

WORKS CITED

Maryland Department of Labor. Maryland Occupational Employment and Wage Estimates 2019. <https://www.dlr.state.md.us/lmi/wages/2415001007/49-9071.htm>.

Montgomery County Council. Bill 10-19, Legislative Branch – Economic Impact Statements – Amendments. Enacted on July 30, 2019. Montgomery County, Maryland.

Montgomery County Council, Bill 51-20. Landlord-Tenant Relations – Window Guards. Introduced on December 8, 2020.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) drafted this economic impact statement.

⁷ Figure provided by Montgomery County Planning Department.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 51-20: LANDLORD-TENANT RELATIONS-WINDOW GUARDS

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 51-20 to have a favorable impact on racial equity and social justice in the County.

BACKGROUND

The main goal of Bill 51-20 is to increase the child safety standards of rental properties in the County. In the past two years, three children have fallen from residential windows located on the second story of the property or higher in Montgomery County; one of the children died.¹ According to the Cincinnati Children's Hospital, every year in the United States between 15 and 20 children under the age of 11 die from window falls annually and about 15,000 suffer injuries.² Additionally, window falls typically occurred in low-income neighborhoods with "deteriorating housing, unsatisfactory window construction and no air conditioning."³

Bill 51-20 will increase landlord responsibilities and rental property safety standards in the County.⁴ If enacted, the bill would:

- Require the installation and maintenance of window guards in certain rental housing;
- Require certain notifications to tenants;
- Add lease requirements in certain circumstances;
- Provide for the enforcement of window guard requirements; and
- Generally amend laws regarding landlord-tenant relations.

DEMOGRAPHIC DATA

A review of the demographic data suggests that Black, Latinx, and Indigenous (Native American) residents will disproportionately benefit from Bill 51-20 compared to White and Asian residents. For example, a review of 2019 data from the American Community Survey demonstrates higher rental rates among Black, Latinx, and Indigenous households where 50% of Latinx and Indigenous residents and 58% of Black residents lived in rented housing compared to 25% of White and Asian residents.⁵

ANTICIPATED RESJ IMPACTS

OLO predicts that the implementation of Bill 51-20 would favorably impact racial equity and social justice within the County because Black, Latinx and Indigenous residents are over-represented among the renters who would benefit from the enhanced safety standards required under this bill as compared to residents in owner-occupied housing.

RESJ Impact Statement

Bill 51-20

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis rely on several sources of information, including the American Community Survey,⁶ Bill 51-20 and the Economic Impact Statement for Bill 51-20⁷.

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.⁸ As identified by the New York City law that requires building owners to install window guards,⁹ this RESJ impact statement offers one recommended amendment for Bill 51-20:¹⁰

- Require landlords to send an annual notice to tenants, asking if children age ten or younger live in the apartment or if window guards are requested for any reason, regardless of whether there are children in residence.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Dr. Theo Holt drafted this racial equity and social justice impact statement.

¹ Montgomery County Council, Bill 51-20, Landlord-Tenant Relations- Fire Safety- Removal of mercury Service Regulators, Introduced December 8, 2020, Montgomery County, Maryland.

² Cincinnati Children's, Window Fall Prevention, 2015. <https://www.cincinnatichildrens.org/health/w/window-falls>

³ Ibid

⁴ Bill 51-20

⁵ American Community Survey (ACS), Selected Housing Characteristics, The United States Census Bureau, 2019. https://data.census.gov/cedsci/table?g=0400000US24_0500000US24031&tid=ACSDP5Y2019.DP04

⁶ Ibid

⁷ Stephen Roblin, Economic Impact Statement, Bill-51-20, December 2020. OLO, Montgomery County, Maryland.

⁸ Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Effective on March 2, 2020, Montgomery County, Maryland.

⁹ NYC Administrative Code, Article 11, Protective Devices and Fire Protection, Code 27-2043.1, New York, New York <https://www1.nyc.gov/assets/doh/downloads/pdf/win/win-savelives-bro.pdf>

¹⁰ EPA Factsheet