

As Introduced

**127th General Assembly
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H. B. No. 421

Representative Miller

**Cosponsors: Representatives McGregor, J., DeGeeter, Evans, Szollosi,
Yuko, Skindell**

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A B I L L

To enact sections 3318.81, 3318.811, 3318.812, and 1
3318.813 of the Revised Code to eradicate nuisance 2
properties from around schools. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3318.81, 3318.811, 3318.812, and 4
3318.813 of the Revised Code be enacted to read as follows: 5

Sec. 3318.81. The board of education of a school district, 6
the governing board of a science, technology, engineering, and 7
mathematics school, the governing authority of a community school, 8
or the authority in charge of a nonpublic school has a cause of 9
action if a residence or other building contiguous to, or situated 10
within one thousand feet of, a school under the control of the 11
board of education, governing board, governing authority, or 12
authority is abandoned and constitutes a nuisance detrimental to 13
the mission of the school. The court of common pleas of the county 14
in which the residence or other building is situated has original 15
jurisdiction of the action. The action is a civil action in rem, 16
and shall proceed in accordance with the Rules of Civil Procedure 17
except as otherwise provided in sections 3318.811 and 3318.812 of 18
the Revised Code. 19

Sec. 3318.811. An action under section 3318.81 of the Revised Code proceeds as follows, subject to section 3318.812 of the Revised Code: 20
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(A) Before commencing the action, the board of education, governing board, governing authority, or authority shall search the relevant land, probate, tax, judicial, and other records to identify any governmental entity or person having or claiming an interest in the residence or other building. A governmental entity or person thus identified, and any other person outside the record claiming an interest in the residence or other building, is entitled to intervene in the action. The board of education, governing board, governing authority, or authority shall notify the governmental entities or persons thus identified in writing, by certified mail, return receipt requested, of its intention to commence the action with regard to the residence or other building, of the effect a judgment in the action will have, of the rights under section 3318.812 of the Revised Code, of the liability under section 3318.813 of the Revised Code, and of the right to intervene in the action. If the notice is not delivered and is returned, the board of education, governing board, governing authority, or authority shall notify the governmental entity or person by ordinary mail. In addition to mailed notice, the board of education, governing board, governing authority, or authority shall publish notice of the same information as is in the mailed notice in a newspaper of general circulation in the county in which the residence or other building is situated, once a week for three consecutive weeks, on three different days of the week. The board of education, governing board, governing authority, or authority may not commence the action earlier than thirty days after the search was completed, the last notice was mailed, or publication is complete, whichever occurs latest. 23
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(B) In its complaint, the board of education, governing 51

board, governing authority, or authority shall allege facts 52
tending to show that the residence or other building is contiguous 53
to, or is situated within one thousand feet of, a school under the 54
control of the board of education, governing board, governing 55
authority, or authority; that the residence or other building is 56
abandoned; that the residence or other building constitutes a 57
nuisance detrimental to the mission of the school; that the board 58
of education, governing board, governing authority, or authority 59
searched the relevant records to identify persons having or 60
claiming an interest in the residence or other building; that the 61
board of education, governing board, governing authority, or 62
authority notified any persons thus identified as provided in 63
division (A) of this section; that the board of education, 64
governing board, governing authority, or authority published 65
notice as provided in that division; and that the action is being 66
commenced after expiration of the time prescribed in that 67
division. 68

(C) The court, not earlier than thirty nor later than ninety 69
days after the action is commenced, shall conduct a hearing in the 70
action. At the hearing the board of education, governing board, 71
governing authority, or authority has the burden of proving the 72
facts alleged in the complaint by a preponderance of the evidence. 73

(D) Not later than thirty days after conclusion of the 74
hearing, the court shall determine whether the facts alleged in 75
the complaint have been proved. If the facts alleged in the 76
complaint have not been proved, the court shall enter judgment 77
dismissing the action. If the facts alleged in the complaint have 78
been proved, the court shall enter judgment granting the board of 79
education, governing board, governing authority, or authority the 80
relief to which it is entitled, which may include authorization to 81
repair or demolish the residence or other building. The board of 82
education, governing board, governing authority, or authority, and 83

its officers, employees, agents, and students, are immune from 84
civil and criminal liability for any action taken within the scope 85
of the authority granted by the judgment. A judgment authorizing 86
demolition forecloses any interest, other than federal liens, in 87
the residence or other building. And a judgment in favor of the 88
board of education, governing board, governing authority, or 89
authority creates liability in accordance with section 3318.813 of 90
the Revised Code. 91

(E) The judgment may be appealed in the same manner as the 92
judgment in any other civil action may be appealed. If the 93
judgment authorizes the residence or other building to be 94
demolished, and the judgment is appealed, the court shall stay 95
effectuation of the judgment insofar as it authorizes demolition, 96
pending outcome of the appeal. 97

Sec. 3318.812. (A) Before the entry of judgment in an action 98
under section 3318.81 of the Revised Code, a party to the action 99
or any other person may undertake lawfully to occupy and repair, 100
or undertake lawfully to repair or demolish, the residence or 101
other building. The party or other person shall promptly notify 102
the court and each party (or each other party) to the action of 103
the undertaking in writing. 104

(B)(1) If the notice is received before the hearing, the 105
court shall stay further proceedings in the action, pending 106
completion of the repair or demolition. If the notice is received 107
during or after the hearing but before the entry of judgment, the 108
court shall delay the entry of judgment, pending completion of the 109
repair or demolition. If the court finds, upon motion by the board 110
of education, governing board, governing authority, or authority, 111
and after a hearing, that the repair or demolition is not being 112
prosecuted with reasonable diligence, or that it has been 113
abandoned, the action shall proceed or judgment shall be entered. 114

If the court finds, upon motion by the board of education, 115
governing board, governing authority, or authority or any person, 116
and after a hearing, that the repair or demolition has been 117
completed in a satisfactory, workerlike manner, the court shall 118
enter judgment dismissing the action. 119

(2) If the notice is received after the entry of judgment, it 120
is void, and the judgment shall be given effect. Upon motion of 121
the board of education, governing board, governing authority, or 122
authority, and after a hearing, the court may open the judgment 123
and modify it as necessary to ensure it can be given effect. 124

Sec. 3318.813. If the judgment in an action under section 125
3318.81 of the Revised Code is in favor of the board of education, 126
governing board, governing authority, or authority, and, if an 127
appeal is taken, the judgment is upheld, the owner of the 128
residence or other building is liable to the board of education, 129
governing board, governing authority, or authority for the 130
expenses it incurred in bringing and prosecuting the action, 131
including costs and reasonable attorney's fees, and for the 132
expenses it incurred in effectuating the judgment. The court, upon 133
application of the board of education, governing board, governing 134
authority, or authority, and after a hearing, may issue a finding 135
determining the amount of the liability and order the amount to be 136
paid. 137