

"38. In every school house district in each county, established as hereinafter provided, there shall be kept for at least thirty-two weeks in each year and longer if possible, one or more schools, according to population, which shall be free to all white youths over six and under twenty-one years of age, and such schools shall be taught by teachers of competent ability and good morals.

"38 A. Every child between six and twelve years of age, shall attend some public day school in the town, city or county in which he resides, during the entire time the public day school, are in session, subject to such exceptions as may be hereinafter provided; provided, that the superintendent of schools, trustees or teacher acting under the authority of said superintendent of schools or school trustees, may excuse cases of necessary absence; and provided, further, that the attendance of the child upon a public day school shall not be required, if such child has attended for a like period of time a private or other day school, or if such child has been otherwise instructed for a like period of time in the rudimentary branches of learning required by law to be taught in the public schools, or has already acquired the rudimentary branches of learning required by law to be taught in public schools, or if the physical or mental condition is such as to render such attendance inexpedient or impracticable.

"Any parent, guardian or other having custody, guardianship or control of any child between the ages of six and twelve years, who shall wilfully prevent such child from attending a public school or some school where rudimentary education is taught, shall be guilty of a misdemeanor and fined not more than \$5 for each offense upon conviction thereof; provided that no one shall be entitled to commence the prosecution under this Act except a teacher in a public school, a school trustee or trustees, member of the school boards, examiner or other person connected with the public school system of the State; and provided further, that any such person having custody or control of such child, who shall be notified of such prosecution about to be commenced, shall have an opportunity to file with the school board a statement under oath, giving his reason for such alleged wilful prevention, and the said school board may order such prosecu-