



**AN BILLE UM CHIBEARBHULAÍOCHT, 2013
CYBERBULLYING BILL 2013**

EXPLANATORY MEMORANDUM

The recent deaths of a number of children who were allegedly the victims of cyber-bullying has prompted calls to enact legislation to deal with this problem. Cyberbullying is carried out by text, picture or video-clip, phone calls, emails, websites, chat rooms and instant messaging.

While the *Post Office (Amendment) Act 1951*, as amended, makes it inter alia an offence to send by telephone any message that is grossly offensive, or is indecent, obscene or menacing, that offence is confined to messages sent by telephone only and does not include any reference to email or other means of electronic communication. Similarly, while the *Non-Fatal Offences Against the Person Act 1997* makes it an offence to harass a person by “*persistently, following, watching, pestering, besetting or communicating with him or her*” the requirement to show “*persistence*” in the harassment is a significant limitation on the legislation.

While it is recognised that cyber-bullying is also a public health and educational issue, this Bill addresses the deficiencies of the existing criminal legislation by creating a standalone offence of cyberbullying.

Section 1 is the title and commencement section.

Section 2 is the definition section. It defines the terms “cyber-bullying,” “child,” and “parents.”

Section 3 makes it an offence to commit cyber-bullying. The offence includes those who engage in the act of cyber-bullying or who assist or encourage cyber-bullying. It provides that parents will be deemed to have omitted the offence where they know of the activity, know or ought reasonably to expect the consequences of the cyber-bullying and fail to take any steps to prevent it from continuing. This bill makes provisions for parents to attend mandatory parenting courses and will only result in a criminal prosecution when a parent continuously and knowingly permits cyberbullying or recklessly disregards cyber bullying been undertaken by their child.

For the sake of clarity it should be noted that if a child is charged with the offence of cyber-bullying the conduct of those proceedings will be governed by the Children Act 2001, as amended. This legislation deals with the conduct of criminal proceedings against

children, the minimum age at which they may be generally charged (12) etc.

7th Samhain, 2013.