Wazi amalungelo akho

ISIKHOKELO ESILUNGISELELWE ABATHENGISI NGEMIZIMBA NAMALUNGELO ABO

WOMEN'S LEGAL CENTRE

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Sibulela iCandelo leMfundo noQeqesho kunye neBlack Sash ngokusivumela kwabo ukuba sisebenzise ingcaciso ekwisikhokelo sabo esiyiParalegal Manual sowama-2008.

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1. INDLELA YOKUSETYENZISWA KWALE NCWADI

Yenzelwe ntoni le ncwadi?

Bonke abantu banamalungelo afanayo, kungajongwe budala babo, sini, ukutyekela kwisini esithile okanye umsebenzi abawenzayo. Kodwa ngenxa yokuba ukuthengisa umzimba kungekho mthethweni eMzantsi-Afrika, abathengisi bemizimba abaninzi abawazi amalungelo abo.

I-*Women's Legal Centre* ibhale le ncwadana ngezizathu ezithathu:

1. Ukubonisa indlela axhatshazwa ngayo amalungelo abathengisi bemizimba ngamagosa karhulumente, amapolisa, abathengi, abanini-zindlu zamahenyukazi nabalawuli bazo;
2. Ukubonisa indlela imithetho ephathelele ekuthengisweni kwemizimba ebachaphazela ngayo abathengisi bemizimba;
3. Nokuchaza amalungelo abathengisi bemizimba, nendlela abanokusebenzisa ngayo umthetho ukuziphindezela ekuxhatshazweni kwanokuzikhusela.

Yintoni endiya kuyifunda kule ncwadi?

Njengomthengisi womzimba, zininzi iindlela anokungahlonitshwa ngazo amalungelo akho. Sebenzisa le ncwadi ukuze:

- Ufunde ngamalungelo onawo emthethweni nakumgaqo-siseko anokuthi akuncede xa amalungelo akho athe akahlonelwa.
- Ufunde ngendlela onokuncedakala ngayo emthethweni xa amalungelo akho aye akahlonitshwa.
- Ube nokunceda abanye abathengisi ngemizimba babe nokufunda ngamalungelo abanawo emthethweni nakumgaqo-siseko.

Kutheni kubalulekile nje ukwazi ngamalungelo am?

Xa uwazi amalungelo akho, uya kuba nakho:

- Ukwazi indlela omele kuphathwa ngayo.
- Ukwazi xa uphethwe ngendlela engekho mthethweni.
- Ukwazi ukuba ungakunceda njani umthetho xa amalungelo akho engahlonitshwa.
- Ukwazi apho unokuya khona ukunyanzelisa amalungelo akho nokufumana uncedo lomthetho.
- Ukufumana ukufaka isimangalo xa amalungelo akho engahlonitshwanga.
- Ukwazisa uluntu ngendlela amalungelo abathengisi bemizimba angahlonitshwa ngayo.
- Ukufundisa usapho lwakho, abahlobo bakho nabantu basekuhlaleni ngamalungelo abathengisi bemizimba.
- Ukunceda abathengisi bemizimba bangaphathwa kakubi.

Sebenzisa le mifanekiso njengesikhokelo sakho kuyo yonke le ncwadi

Isihlomlo: uya kubona lo mfanekiso wepensile ecaleni kwengcaciso ebaluleke kakhulu okanye ekunzima ukuyiqonda.

Inkcazelo zamagama: Uya kubona lo mfanekiso webhalbhu ekhanyayo kufutshane namagama omthetho kwanamagama ekunzima ukuwaqonda. Xa ubona igama elikrwelelwe umgca ngaphantsi, kuya kubakho inkcazelo yalo kufutshane nalo. Xa igama ungaliqhelanga, nceda ufunde inkcazelo yalo.

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2. IGAMA ELITHI “UMTHENGISI NGOMZIMBA”

Sisebenzisa igama elithi “umthengisi ngomzimba” endaweni yeli lithi “ihenyukazi” kuba sifuna ukubethelela uluvo lokuba ngumsebenzi nalo kwaye abathengisi ngemizimba bafanele ukuxhamla amalungelo afanayo nokhuseleko olufanayo kwimisebenzi yabo njengabanye abasebenzi. Ukutshintsha igama akutshintshi ibala elibi elibekwa abathengisi ngemizimba kodwa oko kubonisa ukuhlonipha isidima namalungelo abantu abathengisa ngemizimba.

Ngamanye amaxesha sisebenzisa igama elithi “ihenyukazi” kuba iligama elisetyenziswa kwimithetho esiyixoxayo.

3. AMALUNGELO ABATHENGISI NGEMIZIMBA AFUMANEKA KUMGAQO-SISEKO

UmGaqo-siseko waba ngumthetho ngowe-1996 emva kokuba uMzantsi-Afrika waba **lilizwe lentando yesininzi**. Nguwona mthetho uphezulu elizweni; oku kuthetha nawuphi na umthetho ophikisana nomGaqo-siseko **awusebenzi**.

IsaHluko 2 somGaqo-siseko siqulathe **uluhlu lwamalungelo** olunika bonke abemi boMzantsi-Afrika **amalungelo asisiseko** athile ekufuneka **ahlonitshwe**, **akhuselwe**, **akhuthazwe** kwaye **azalisekiswe**. Amanye ala malungelo abalulekileyo nakubathengisi ngemizimba ngala:

linkcazelo zamagama

Ilizwe lentando yesininzi: Ilizwe elikhululekileyo nelizimeleyo. Ilizwe loMzantsi-Afrika laba lilizwe lentando yesininzi emva kokuphela kocalucalulo.
Uluhlu lwamalungelo: Icandelo lomGaqo-siseko eliqulathe uludwe lwamalungelo abantu.
Ucalucalulo: Inkqubo eyayisahlukanisa abantu ngokobuhlanga neyayiphatha abantu beentlanga ezahlukeneyo ngokungalinganiyo.
Amalungelo asisiseko: amalungelo angundoqo nabalulekileyo onawo okanye onelungelo kuwo njengomntu ophilayo.
Awasebenzi: Awathathelwa ngqalelo, akamkelekanga, akakho mgaqweni
Ahlonitshwe: Axatyiswe.
Akhuselwe: Agadwe, kungabikho nto iphikisana nomGaqo-siseko.
Akhuthazwe: Ahlonitshwe, axhaswe kwaye kwaye aphakanyiswe.
Azalisekiswe: alandelwe kwaye aphunyezwe.

Icandelo kuluhlu lwamalungelo	**Ilungelo**	**Kuthetha ukuthini oku kubathengisi ngemizimba?**
9	**Ukulingana** Wonke umntu uyalingana emthethweni kwaye unelungelo lokuncedeka nelokukhuselwa ngokulinganayo ngumthetho .	Abathengisi ngemizimba bafanele ukuphathwa ngokulinganayo. Imithetho ekhusela bonke abemi belizwe imele kubakhusela nabathengisi ngemizimba.
10	**Isidima somntu** Wonke umntu unesidima semveli kwanelungelo lokuhlonitshwa nokukhuselwa kwesidima sakhe.	Akukho bantu okanye ndawo inakho ukukuthuka okanye ingakuhloniphi ngokuthetha nangezenzo.

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12	**Inkululeko nokhuseleko lomntu** Wonke umntu unelungelo lokukhululeka kwaye angathuthunjiswa okanye aphathwe ngenkohlakalo, ngokungenabuntu okanye ngendlela ehlazisayo.	Akunakho ukubanjwa kungekho sizathu sibambekayo. Akunakho ukuphathwa kakubi ngethuba useluvalelweni lwamapolisa.
14	**Ilungelo lobomi bangasese** Wonke unelungelo lobomi bangasese.	Unelungelo lokungaxeleli mntu ngemeko yakho yentsholongwane kagawulayo nangekagawulayo. Akukho mntu okanye ziko linokukunyanzela ukuba uchaze imeko yakho okanye uvavanye.
16	**Inkululeko yokuthetha** Wonke umntu unelungelo lenkululeko yokuthetha equka ilungelo lokunika okanye lokufumana ingcaciso okanye izimvo.	Unalo ilungelo lokuvakalisa izimvo zakho ngemiba ekhoyo solongo nje ungakhubekisi abanye abantu.
18	**Inkululeko yokuzibandakanya** Wonke umntu unelungelo lokungenela umbutho.	Unelungelo lokungenela iiklabhu, amaqela okanye umbutho kwaye akunakwahlukaniswa ngenkani nabantu.
21	**Inkululeko yokuhamba nokuhlala** Wonke umntu unelungelo lokuhambahamba ngokukhululekileyo, lokuhlala okanye lokushiya ilizwe nelokuhlala naphi na kweli lizwe.	Unakho ukuya naphi na kweli lizwe ngokuthanda kwakho kwaye akunakunyanzelwa ukuba uye kwindawo eyahlukileyo, kude nabantu besizwe sakho.
22	**Inkululeko yokurhweba, yempangelo nomsebenzi ofundelweyo** Wonke umntu unelungelo lokukhetha umsebenzi ngokukhululekileyo.	Ungazikhethela umsebenzi ofuna ukuwenza.

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23	**Ubudlelwane kwezomsebenzi** Wonke umntu unelungelo lokuphatheka kakuhle emsebenzini.	Akunakucalucalulwa emsebenzini.
24	**Indalo esingqongileyo** Wonke umntu unelungelo lokuba kwindawo engenangozi kwimpilo yakhe.	Unelungelo lokuhlala kwindawo ecocekileyo kwaye wonke umntu, kuqukwa norhulumente unoxanduva lokukhusela nokugcina indawo ukulungiselela isizukulwana esizayo..
26	**Ilungelo lokuba nendlu** Wonke umntu unelungelo lokuba nendlu efanelekileyo. Akukho mntu unokukhutshwa kwindlu yakhe okanye achithelwe indlu yakhe ngaphandle komyalelo wenkundla.	Awunakwalelwa inkxaso-mali yendlu okanye imali-mboleko kuba ungumthengisi ngomzimba. Sisenzo esingekho mthethweni ukukhutshwa endlwini ngenxa yomsebenzi owenzayo.
27	**Ilungelo lonyango, ukutya, amanzi nokhuseleko lwezentlalo** Akukho mntu unokwalelwa unyango olukhawulezileyo. Nawuphi na umntu unelungelo lokufumana iinkonzo zonyango ezinjengokubelekisa nendodla xa engakwazi ukuzondla yena nabaxhomekeke kuye.	Akukho sibhedlele okanye amagosa onyango anelungelo lokwala ukukunyanga.
29	**Ilungelo lokufumana imfundo** Wonke umntu unelungelo lokufumana imfundo esisiseko equka nemfundo esisiseko yabadala.	Isikolo asimelanga kwala ukukufundisa okanye ukufundisa umntwana wakho kuba ungumthengisi ngomzimba.
32	**Ukufikelela kwingcaciso** Wonke umntu unelungelo lokubona ingcaciso ekomnye umntu enokuthi ifuneke ukuze loo mntu abe nokusebenzisa okanye akhusele amalungelo akhe.	Xa unoluvo lokuba amalungelo akho akahlonitshwa nangayiphi na indlela, njengakumgaqo-nkqubo wengqesho, unakho ukucela ukubona umgaqo-nkqubo lowo kwaye unelungelo lokucela umngeni ngawo kwinkundla yamatyala. Kukwanjalo nakwezinye iindawo okanye amaziko.

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33	**Isenzo sezolawulo esinobulungisa** Nawuphi na umntu olungelo lakhe liye latyeshelwa sisenzo sezolawulo unelungelo lokuba anikwe izizathu ezibhaliweyo, umz. izizathu zokulibaziseka komba othile.	Xa unoluvo lokuba walelwa inkonzo ekufaneleyo ngezizathu ezingavakaliyo, unelungelo lokufuna ukubona izizathu uze uthathe isigqibo sokuba ingaba ufuna ukuzicela umngena na ezo zizathu.
35	**Abantu ababanjiweyo, abavalelweyo okanye abatyholwayo** Nawuphi na umntu ovalelweyo, kuqukwa namabanjwa agwetyiweyo banelungelo lokuhlaliswa phantsi kweemeko zokuvalelwa ezingekho nxamnye namalungelo abo esidima.	Amabanjwa akamele kuphathwa ngendlela engenabulungisa okanye engenasidima kuba bengabathengisi ngemizimba.

4. IMITHETHO EKHOYO YOMZANTSI-AFRIKA ENGOKUTHENGISA NGOMZIMBA

Imithetho yethu yenza ibe lulwaphulo-mthetho ukwabelana ngesondo uza kuhlawula KWAnokuhlawulela ukwabelana ngesondo. Oku kuthetha ukuba, umthengisi ngomzimba kwanomthengi wesondo bophula umthetho.

Nantsi imithetho esebenzayo kulo mba:

Icandelo lama-20(1)(aA) **lomThetho weTyala leSondo we-1957** uthi: *"Nawuphi na umntu* **owabelana ngesondo ngokungekho mthethweni** *okanye owenza* **isenzo senyala**, *naye nawuphi na umntu eza kuhlawula, waphula umthetho."* Icandelo le-11 **lomThetho woHlengahlengiso lomThetho woLwaphulo-mthetho (amaTyala eSondlo naweMiba eyeleleneyo), wama-32 kowama-2007**, uthi: *"Umntu (A) othi ngokungekho mthethweni nangenjongo aqeshe iinkonzo zomntu ominyaka ili-18 okanye ngaphezulu (B), ngenjongo yokumhlawula ngemali okanye ngenye indlela okanye imbuyekezo ku-B okanye kumntu wesithathu (C) –*

> *(a) ngenjongo yokwenza* **isenzo sokwabelana sesondo** *no-B nokuba kwabelwene okanye kungabelwananga ngasondo; okanye*
> *(b) ngokwenza isenzo sokwabelana ngesondo no-B, uya kuba netyala lokurhwebesha iinkonzo zesondo nomntu ominyaka ili-18 okanye ngaphezulu."*

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UmThetho weTyala leSondo we-1957 ukwathintela oku kulandelayo:
Ukugcina indlu yamahenyukazi;
Ukurhwebesha – ngamanye amazwi, ukugaya umntu ukuba asebenze njengomthengisi ngomzimba okanye ukumgayela kwindlu yamahenyukazi;
Ukuququzelela ukuthengisa ngomzimba, apho iiarhente ezikhaphayo zikhapha abantu zisazi ukuba baya kuthengisa ngesondo kubathengi babo;
Othi esazi aphile ngemali ayizuza ngokuthengisa ngomzimba (eli candelo lijolise kubantu abafunela amadoda amahenyukazi). **Ukurhwebesha** – ngamanye amazwi ukumema umntu ngamazwi, ngentshukumo yomzimba okanye ngayo nayiphi na indlela ukuba ahlawulele isondo; **ukuzihluba umzimba namanyala ekuhleni**.

Ukuthengisa ngomzimba lulwaphulo-mthetho **ngokwemithetho yoomasipala abaninzi**.

E**Kapa**, ngokomThetho kaMasipala omayela neziTrato, iiNdawo ezisesidlangalaleni nokuThintelwa kweNkathazo ongunombolo PG6469 lulwaphulo-mthetho ukuthengisa ngomzimba. Ummiselo wesi-2 walo mthetho uthi:

> "Akukho mntu, ngaphandle kwepolisa okanye naliphi na igosa okanye umntu osebenza ngokwemigaqo yomthetho, uya –
>
> (a) xa ekwindawo esisidlangalala–
>
> (i) kuthintela ngenjongo okanye aphazamise ukuhamba ngokhuseleko okanye ukuhamba ngokukhululekileyo komhambi ngeenyawo okanye isithuthi; okanye
>
> (ii) ngenjongo aphathe okanye adibane nomnye umntu okanye angene kwindawo yakhe ngaphandle kwemvume yaloo mntu."

Kwezinye iindawo zalo mmiselo, kuthiwa:

> "akukho mntu uya kwenza nasiphi na isenzo sokwabelana ngesondo esidlangalaleni."

> "akukho mntu uya kuthi esidlangalaleni, arhwebeshe okanye ancekelele nawuphi na umntu ngenjongo yokwenza ubuhenyukazi okanye inyala".

ERhawutini, icandelo le-12 leNdlela neminye imiThetho kaMasipala, lithi:

> "Akukho mntu uya–
>
> (a) kulala, ahlale, eme, ahlangane, azulazule okanye ahambe kungenjalo enze, kuyo nayiphi na indlela

linkcazelo zamagama

Ukwabelana ngesondo ngokungekho mthethweni: Ukulalana kwabantu abangatshatanga.
Isenzo senyala: Isenzo esingumkhuba nesihlasimlisayo kwabanye.
Ukwabelana ngesondo: isenzo sokulalana kwabantu ababini xa amalungu abo esini evuselelekile de bachame.
Ukungena phakathi kwelungu lesini: Nasiphi na isenzo esibangela ukufakwa kwelungu lesini okanye naliphi na ilungu lomzimba.
Indlu yamahenyukazi: Nayiphi na indlu okanye indawo esetyenziselwa ubuhenyukazi.
Ukurhwebesha: ukucela umntu ukuba enze isenzo esingekho mthethweni.
Ukuzihluba umzimba: isenzo esilulwaphulo-mthetho sokubonakalisa ilungu langasese ekuhleni.
Imithetho kaMasipala: Imithetho ekhutshwe yidolophu okanye ibhunga lesixeko esebenza kuphela kuloo masipala.

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Iinkcazelo zamagama

Iwaranti yokusetsha: Liphepha elikhutshwa ngumntu womthetho okanye igosa likarhulumente elivumela ipolisa okanye omnye umntu ukuba akubambe, asetshe indawo ohlala kuyo okanye enze nantoni na ehambisana nolawulo lobulungisa.

Isihlomlo

Kubalulekile ukwazi ukuba amapolisa akanalo ilungelo lokukusetsha ngaphandle kokuba **anezizathu ezibambekayo** zokukukrokrela ukuba waphule umthetho. Oku kuthetha ukuba, kufuneka aqiniseke ukuba anobungqina obaneleyo bokuqinisekisa umtshutshisi ukuba ityala lingaya enkundleni.

Umzekelo, masithi ipolisa lifumene umyalezo kwirediyo othi kukho ivenkile eqhekeziweyo. Xa lifika evenkileni, libona indoda iphuma ibaleka, iphethe ingxowa yemali. Kule meko, linomhlaba obanzi wokukholelwa ukuba le ndoda yile ibiqhekeza ivenkile kwaye linakho ukuyibamba ngokusemthethweni.

yabantu, ngayo nayiphi na indlela enokuphazamisa ukuhamba kwezithuthi;
(b) kutyhudisa okanye azulazule mayela nomgama oziimitha ezingama-20 ukusunga kwisango layo nayiphi na indawo yokunqulela ngethuba lokuqhuba kwenkonzo okanye ngethuba lendibano enkonzweni okanye lokuchithakala kwaloo ndibano ngendlela eya kuphazamisa okanye icaphukise nawuphi na umntu oya okanye ophuma kuloo ndawo yonqulo.”

5. UKUPHATHWA KAKUBI NGAMAPOLISA NAMALUNGELO AKHO

Abathengisi ngemizimba abaninzi banike ingxelo yokuba bayahlutshwa ngamapolisa. Okunye ukungahlonitshwa kwamalungelo abantu okunokwenzeka njengenxalenye yokuhlupha kwamapolisa kuquka:

- Ukungahlonitshwa kwamalungelo akho xa ubanjwa.
- Amalungelo akho anokungahlonitshwa ngokuphathelele kwiimeko nempatho oyifumanayo xa uvalelwe.
- Ilungelo lakho lokuvela enkundleni yamatyala lisenokungahlonitshwa.

Kula macandelo alandelayo sichaza amalungelo onawo xa ubanjwa, xa uvalelwe emapoliseni naxa uvela kwinkundla yamatyala.

Amalungelo akho xa ubanjwa

Xa ipolisa lisiza kuwe, linelungelo lokukubuza imibuzo. Wena ke cela ipolisa elo ukuba likubonise ikhadi lalo lobupolisa. Okunye okuye kulandele kuxhomekeke kulo.

- Xa lisala ukukubonisa ikhadi lobupolisa, usenokungaliniki iinkcukacha zakho.
- Xa ipolisa lizazisa kuwe, kufuneka ulinike igama lakho elipheleleyo nalapho uhlala khona. Xa usala, anakho ukukubamba.
- Akufuneki uwanike iinkcukacha zakho ezingaphezu koko. Lilungelo lakho ukuwaxelela ukuba uya kuyiphendula eminye imibuzo xa kukho igqwetha. Kweso sithuba ipolisa lisenokukucela ukuba niye emapoliseni. Usenokungayi ngaphandle kokuba ayakubamba.

Amapolisa asenokukusetsha. Akufuneki **iwaranti yokugqogqa** ifunekayo xa:

- Uwavumela ukuba akusetshe.
- Enezizathu ezivakalayo zokuba xa enokuya kufuna iwaranti yokusetsha kumantyi, ubungqina obukhoyo bungaphelela emoyeni.

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- Ekubamba.
- Ekholelwa ukuba uneziyobisi.
- Ekholelwa ukuba unengcaciso enokuwanceda kuphando lwawo.

Okuthethwa ngumGaqo-siseko

Icandelo lama-35 lomGaqo-siseko lithi:

"Nawuphi na umntu obanjiweyo ngesityholo sokwaphula umthetho unelungelo: -

a) Lokuthula angaphenduli nto;
Lokwaziswa ngokukhawuleza –
(i) ngelungelo lokuthula angaphenduli nto;
(ii) nangeziphumo zokuphendula kwakhe;

b) Lokunganyenzelwa ukuba avume nasiphi na isityholo okanye ukuvuma kwakhe kungasetyenziswa njengobungqina obuqamangela kwayena;

c) Lokusiwa enkundleni yamatyala ngokukhawuleza phambi –
(i) kokuphela kweeyure ezingama-48 emva kokubanjwa kwakhe ; okanye
(ii)kokuphela kosuku lokuqala lwenkundla emva kokuphela kweeyure ezingama-48, ukuba iintsuku ezingama-48 ziphela ngosuku olungelolwankundla yamatyala;

d) Ukuvela kwakhe okokuqala emva kokubanjwa kwakhe, abekwe ityala okanye achazelwe isizathu sokuqhuba kovalelo okanye akhululwe;

e) Akhululwe ekuvalelweni ukuba oko kufanelekile ngokobulungisa, kuxhomekeke kwiimeko ezifanelekileyo."

Oku kuthetha ukuba, xa ubanjwa, ipolisa kufuneka likuxelele **ilungelo lakho lokuthula** abanakugcina **uvalelwe** ngaphezu kweeyure ezingama-48 bengakusanga enkundleni yamatyala. Ipolisa lingakukhupha **ngebheyile** ukuba urhulumente uyavuma, kodwa ke isenokubakho imiqathango yebheyile.

Phantsi kweemeko ezikhethekileyo, ipolisa livumelekile ukuba lingawahloniphi amalungelo akho xa likubamba. Ezo meko zichazwe kumThetho weNkqubo yoLwaphulo-mthetho we-1977.

Icandelo lama-40(1) lalo mthetho livumela ipolisa ukuba libambe umntu ngaphandle kwewaranti xa loo mntu:

Esaphula umthetho kukho ipolisa okanye ezama ukwenza oko;
- Xa ezimele eluvalelweni lwamapolisa okanye ezama ukwenza oko;
- Xa enesixhobo sokuqhekeza indlu okanye imoto kwaye ingonelisi inkcazelo yakhe ngokuba neso sixhobo;
- Xa enempahla ekukrokreleka ukuba ibiwe;
- Xa efunyanwa ebusuku phantsi kweemeko ezibangela

Iinkcazelo zamagama

Ilungelo lokuthula: Iinkundla ezininzi ehlabathini ziyalamkela eli lungelo. Lithetha ukuba akunyanzelekanga ukuba uphendule imibuzo yamapolisa, ingakumbi xa iimpendulo zakho ziya kuba bubungqina bokuba ngenene ukwenzile otyholwa ngako. Xa ungaqinisekanga, unelungelo lokufuna igqwetha phambi kokuba uphendule nawuphi na umbuzo.

Ukuvalelwa: xa uvalelwe kwizisele zamapolisa.

Ibheyile: Xa ubanjiwe kwaye uza kuvela enkundleni, akuyomfuneko ukuba ugcinwe ejele kude kuqosheliswe ityala lakho. Umantyi angakuvumela ukuba uhlale ngaphandle okwethutyana emva kokuba kuhlawulwe imali yebheyile. Ngumantyi ogqibayo ukuba mayibe yimalini. Xa uthe wamana usiya enkundleni ngomhla wetyala lakho, imali yebheyile iya kubuyiswa xa lithe laqosheliswa ityala.
Xa uthe awaya enkundleni, imali yebheyile iya kutshona kurhulumente.

Isihlomlo

Asilolungelo lamntu ukukhululwa ngebheyile. Ukhululwa ngebheyile xa ubulungisa buvuma. Ngamanye amazwi, ipolisa, umtshutshisi nomantyi baya kuqwalasela iimeko ezahlukeneyo xa bethatha isigqibo sokuba bakukhuphe ngebheyile kusini na. Ezi meko ziquka:
Ingaba uyaqala na ukona?
Ingaba kuxhonyekekwe kuwe na ekhayeni lakho?
Ingaba unabo abantwana abancinane?
Ungalahlekelwa ngumsebenzi xa unokuhlala uvalelwe?
Iinkundla zamatyala zidla ngokubeka imiqathango ethile xa zikhulula umntu ngebheyile. Umzekelo, kusenokubakho umqathango othi kufuneka ungasondeli kwingqina okanye kuthiwe kufuneka uzichaze emapoliseni ngamaxesha athile.

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ukuba ipolisa limkrokrele njengomntu owaphule umthetho okanye oza kwaphula umthetho;
- Ekrokrelwa ngokwaphula umthetho ophathelele kwisiyobisi okanye kwimipu;
- Xa ephazamisa ngenjongo ipolisa emsebenzini walo;
- Xa ekrokrelwa ngokwaphula umqathango obekwe yinkundla xa ibibuyisela umva okanye inqumamisa isigwebo;
- Xa ekrokrelwa ngokusilela ukuhlawula ngethuba umdliwo obekwe yinkundla;
- Xa ekrokrelwa ngokwenza isenzo esisesempathombi kumakhaya.

Xa ipolisa libamba umntu ngaphandle kwewaranti phantsi kweli candelo, umntu lowo kufuneka abekwe ityala phantsi kolu lwaphulo-mthetho.

Icandelo lama-49 lomThetho weNkqubo yoLwaphulo-mthetho lichaphazela ukusetyenziswa kwezigalo xa sukuba kubanjwa umntu. Amapolisa anokusebenzisa kuphela izigalo ezingekho ngaphezu kwemfuneko nezifanele ukoyisa ukuxhathisa okanye ukuthintela obanjwayo ukuba angabaleki.

Amalungelo akho xa uvalelwe

1. UmGaqo-siseko

Xa uvalelwe emapoliseni, amalungelo akho akhuselwe licandelo lama-35(2) lomGaqo-siseko. Eli candelo lithi:

Nawuphi na umntu ovalelweyo, kuqukwa naliphi na ibanjwa eligwetyiweyo linalo ilungelo–

a) Lokuchazelwa ngokukhawuleza isizathu sokuvalelwa kwakhe;
Lokukhetha nelokufuna igqwetha kwaye kufuneka laziswe ngokukhawuleza ngeli lungelo;

b) Lokuba negqwetha elinikwa umntu ovalelweyo ngurhulumente ngeendleko zikarhulumente, xa busenokungenzeki ubulungisa kwaye kufuneka aziswe ngeli lungelo;

c) Lokucela umngeni ngokufaneleka kokuvalelwa kwakhe kwinkundla yamatyala kwaye ukuba ukuvalelwa kwakhe kufumaniseka kungekho mthethweni, akhululwe;
Le miqathango yokuvalelwa ehambelana nesidima somntu, kuqukwa ubuncinane umthambo kwanobukho, ngeendleko zikarhulumente, kwendawo yokulala eyaneleyo, ukutya, iincwadi zokufunda nonyango

d) Lokunxibelelana nokutyelelwa –
(i) liqabane laloo mntu;

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(ii) sisizalwane
(iii) ngumfundisi wenkonzo okhethiweyo; (iv) nangugqirha okhethiweyo.

Kuthetha ukuthini oku kuwe njengomthengisi ngomzimba?

- Xa ipolisa likubamba, kufuneka likuse emapoliseni ngokukhawuleza. Akamelanga kuhamba nawe esenza umsebenzi wawo ithuba elide.
- Xa ufika emapoliseni, ipolisa kufuneka likuchazele isizathu sokuba ubanjwe.
- Ipolisa kufuneka likuvumele ukuba uthethe negqwetha okanye usapho lwakho.
- Isisele okuso kufuneka sicoceke.
- Kufuneka ufumane ukutya okufanelekileyo.
- Kufuneka ufumane unyango xa ulufuna.
- Unakho ukulicela ipolisa ukuba likukhulule ngesilumkiso (ibheyile yasimahla). Oku kuthetha ukuba ipolisa liya kukuyalela ukuba ube senkundleni ngosuku olulandelayo.

2. Umgaqo-nkqubo nemiyalelo yamapolisa

Amapolisa **anomGaqo-nkqubo wokuThintelwa kokuThuthumbisa noNyango lwaBantu abaseLuvalelweni lwamaPolisa**. Lo mgaqo-nkqubo usisikhokelo ekufuneka silandelwe ziiKhomishina zezikhululo zamapolisa kwanabanye abaphathi ukuthintela ukuthuthumbisa okanye ukuphatha kakubi umntu oseluvalelweni. Esi sikhokelo sichaphazela le miba ilandelayo:

Iimeko eziseleni zamapolisa;
Amalungelo omthetho mayela notyelelo;
Ukukhathalelwa kwamaqela athile abantu;
Ukubakho kwezinto zokulala, ukutya nempahla.

Kwakhona, amapolisa anemiyalelo yawo ekufuneka eyilandele ngendlela yokuphatha abantu abaseluvalelweni. Eyona ibalulekileyo kuwe njengomthengisi ngomzimba yile: :

Umyalelo (G) 341

Icandelo le-8(3) lithi, xa ubanjwa, amapolisa anoxanduva lokuqinisekisa ukuba ukhuselekile ngethuba useluvalelweni. Kufuneka abhale phantsi konke ukwenzakala onakho kwiincwadana zawo zeepokotho.

Umyalelo (G) 349.2

Icandelo lesi-2 lalo myalelo lithi, ukuba wenzakele, ipolisa elikubambileyo linoxanduva ngokomthetho lokukonga kwaye liqinisekise ukuba ufumana unyango. Icandelo 4 lithi, ipolisa kufuneka libhale phantsi kwincwadana yalo zonke izinto elizenzileyo ukukufunela amayeza.

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Umyalelo (G) 361

Lo myalelo ungeemeko zezisele zamapolisa.

- Isisele kufuneka sibe nokukhanya okwaneleyo kwanempepho epholileyo.
- Isisele kufuneka sicoceke.
- Kufuneka unikwe umatrasi nengubo ecocekileyo.

Amalungelo akho kwinkundla yamatyala

Xa ipolisa likubeke ityala kwaye kufuneka uvele enkundleni, unala malungelo alandelayo phantsi kwecandelo 35(3) lomGaqosiseko:

"nawuphi na umntu obekwa isityholo unelungelo lokuvavanywa ngokufanelekileyo, kwaye oko kuquka –

a) Ukwaziswa ngesityholo esineenkcukacha ezizeleyo onokuphendula kuso;
b) Ukuba nethuba elaneleyo nendawo ukulungiselela ukuzithethelela;
c) Uvavanyo olusekuhleni phambi kwenkundla yesiqhelo;
d) Ukuxoxwa kwetyala kuqale kwaye kuqosheliswe ngaphandle kokulibazisa;
e) Ummangalelwa abe khona xa kuxoxwa ityala lakhe;
f) Ukukhetha nokumelwa ligqwetha kwaye kufuneka waziswe ngeli lungelo kwangoko;
Ukuba negqwetha elikhethelwe ummangalelwa ngurhulumente ngeendleko zikarhulumente, xa kunokubakho ukudlelelelwa kommangalelwa kwaye kufuneka aziswe kwangoko ngeli lungelo;
g) Ukuthathwa njengongenatyala, ukuthula nokunganiki bungqina ngexesha lokuvavanywa kwetyala;
h) Ukunika nokuphikisa ubungqina;
i) Ukunganyanzelwa ukuba unike ubungqina obubophelelayo;
j) Ukuvavanywa ngolwimi aluqondayo ummangalelwa okanye xa oko kungenakho ukwenzeka, kutolikwe ngolwimi lommangalelwa;
k) Ukungafunyanwa unetyala ngesenzo okanye ngokusilela okwakungelolwaphulo-mthetho phantsi komthetho wesizwe okanye owamazwe ngamazwe ngethuba lokwaphulwa kwawo;
l) Ukungavavanywa kwityala umntu awayegwetyelwe okanye wafunyanwa enetyala kulo ;
m) Ukufumana esona sohlwayo siphantsi kwisohlwayo esimiselweyo ukuba isohlwayo esimiselweyo solwaphulo-mthetho sikhe satshintshwa phakathi kwexesha lokwaphulwa komthetho nelokugwetywa;
n) ukubhena, ukuphonononga, inkundla ephakamileyo"

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Ukuvela enkundleni okokuqala ngesityholo

Ishihlomlo

Xa ungoneliseki liGosa lezomThetho, ungaqhagamshelana neBhodi yoNcedo ngezomThetho. Ziyafumaneka iinombolo zoqhagamshelwano ngemva kule ncwadi.

Nantsi indlela esebenza ngayo inkqubo yenkundla xa uvela enkundleni okokuqala ngesityholo:

1. Kukho iGosa lezomThetho kwinkundla nganye, elibekelwe ukwamkela ityala lakho kwangoko.

2. IGosa lezomThetho okanye igqwetha limele lithathe ingxelo yakho? Liya kukuxelela isityholo obekwa sona. Liya kukubuza ukuba ingaba unetyala okanye akunatyala.

   Musa ukuthi 'unetyala' NGAPHANDLE KOKUBA:
   - o Uyenzile le nto utyholwa ngayo;
   - o KWAYE
   - o Akunandlela ongazikhusela ngayo kwisityholo obekwa sona. Umzekelo, ukuba uhlabe umntu uzikhusela, sisizathu esivakalayo eso.

   Ungathi 'akunatyala' ukuba:
   - o Akusenzanga isityholo otyholwa ngaso; OKANYE
   - o Usenzile isityholo otyholwa ngaso KODWA ubunesizathu esivakalayo esibangele ukuba wenze njalo. Eso sizathu siya kusetyenziswa ekuzikhuseleni kwakho.

3. IGosa lezomThetho liya kuxelela inkundla ngendlela ophendula ngayo kwisityholo lize ke ityala liqosheliswe okanye limiselwe omnye umhla.

   - · Xa ulivuma ityala, inkundla ingawisa isigwebo ngoko nangoko, lingamiswa ityala.
   - · Xa ulivuma ityala ize inkundla ingakulungeli ukuwisa isigwebo ngoko nangoko, ityala lingamiswa.
   - · Xa ungalivumi ityala, ityala liya kumiswa ukunika umtshutshisi ithuba lokuphanda ngokwaneleyo.
   - · Ukuba ubukhe wavela enkundleni ngaphambili, ukuba amapolisa alugqibile uphando kwaye negqwetha linayo ikopi yedokethi lamapolisa, ityala liya kumiselwa ukuxoxwa ngomnye umhla.

4. Xa ityala limisiwe, ungakhululwa ngomyalelo wokuba uze ubuye uvele phambi kwenkundla ngomhla wetyala okanye ungakhululwa ngebheyile.

   Xa ufuna ukukhululwa ngebheyile, kufuneka uqinisekise umantyi ukuba:
   - o Awuyi kubaleka.
   - o Unendawo esisigxina ohlala kuyo.
   - o Akuyongozi kwabanye abantu.
   - o Akuyi kwenza naluphi na ulwaphulo-mthetho.
   - o Akuyi kugrogrisa amangqina.

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Iinkcazelo zamagama

Ukubuza imibuzo: kuxa umtshutshisi okanye igqwetha lommangalelwa libuza ingqina imibuzo. Injongo kukuqinisekisa ubunyani kubungqina bengqina nokufumana ezinye iinkcukacha.

Xa inkundla ikunika ibheyile, ungagoduka emva kokuba ihlawulwe imali yebheyile.

Xa ungalivumi ityala ize inkundla iqhubele phambili.

Esakube amapolisa nomtshutshisi belugqibile uphando lwabo kwaye negqwetha libe nalo ithuba lokuzilungiselela, ityala liya kuqhuba. Naku okuya kwenzeka:

1. Umtshutshisi uya kuchaza isimangalo

- Umtshutshisi uchazela umantyi isimangalo omangalelwa ngaso ebonisa ukuba unetyala. Kudla ngokubizwa amangqina njengepolisa elalikubambile linike ubungqina obubonisa ukuba unetyala.
- Igqwetha lakho liya kunikwa ithuba **lokubuza imibuzo** kumangqina.
- Emva koko umtshutshisi usenokuwabiza kwakhona amangqina. Emva koko umtshutshisi uya kubuqoshelisa ubungqina bakhe.

Kwesi sithuba, ukuba akukho bungqina buqinileyo bukubophelelayo, igqwetha lakho lisenokuphakamisa ukuba ufunyanwe ungenatyala, ngamanye amazwi, lichithwe ityala. Ukuba umantyi uyavuma, uya kufunyaniswa ungenatyala. Ukuba umantyi akavumelani noko, ityala liya kuqhuba.

2. Ithuba lokuzithethelela

- Lithuba lokuba igqwetha lichazele inkundla ngobumsulwa bakho. Lisenokubiza amangqina kuqukwa nawe.
- Umtshutshisi uya kubuza imibuzo kumangqina abizwe ligqwetha.
- Njengangaphambili, igqwetha liya kufumana ithuba lesibini lokubuza kwakho amangqina.

3. Iingxoxo zokuvala

Umtshutshisi negqwetha lakho baya kufumana ithuba lokuqoshelisa ubungqina babo, benika izizathu zokuba umantyi akufumanise unetyala okanye ungenatyala.

4. Isigwebo

Kwesi sithuba, umantyi uya kuchaza ukuba ingaba inkundla ikufumana unetyala okanye ungenatyala kusini na. Ukuba inkundla ikufumana ungenatyala, uya kuhamba.

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5. Ukuwiswa kwesigwebo

Ukuba ufunyaniswa unetyala, inkundla iya kuwisa isigwebo.

- Kuqala, umtshutshisi uya kunika izizathu ezibambekayo enkundleni ngendlela ephembelela isigwebo esiqatha.
- Emva koko igqwetha lakho liya kufumana ithuba lokunika izizathu ezithethelelayo nezibonisa ukuba kutheni ungasifanelanga isigweba esiqatha. Ezi zizathu zingaquka:
  - ukuzisola.
  - Into oyenzileyo ukulungisa umonakalo.
  - Ungaphantsi kweminyaka eli-18.
  - Uyaqala ukubanjwa.
  - Abantu abaninzi abaxhomekeke kuwe.
  - Kukho izinto ezizezinye ojongene nazo.
  - Ukugwetyelwa ngaphakathi akuyi kukufanela: Umzekelo, imeko yempilo yakho.

6. Isibheno okanye uphononongo

Uya kuba nethuba lokubhena okanye lokuphononongwa kwesigwebo. Oku kuthetha ukuba ungacela inkundla ephakamileyo ukuba isitshintshe isigqibo sikamantyi.

6. INDLELA ONOKUNCEDA NGAYO UMTHETHO XA AMAPOLISA ENGAWAHLONELI AMALUNGELO AKHO

Ukuba ubanjiwe aze amapolisa akalandela imigaqo efanelekileyo echazwe kwisahluko 5, zininzi izinto onokuzenza.

- Ukuba ipolisa likuphethe kakubi okanye ukuba ufakwe kwisisele esimdaka, esibandayo okanye esingakhuselekanga, ungafaka isikhalazo kuMasitishi wesikhululo okuso.
- Ukuba uMasitishi akakuncedi, ungafaka isikhalazo kwi-*Independent Complaints Directorate (ICD)* okanye iKhomishoni yamaLungelo aBantu.
- Ukuba ipolisa liye lakwenza into elulwaphulo-mthetho, unelungelo lokufaka isimangalo ngelo polisa. Imizekelo yolwaphulo-mthetho olunokwenziwa ngamapolisa luquka:
  - Ukubetha, umzekelo, xa ekuhlasela okanye ekufefa ngesipreyi.
  - Ukuthuka, umzekelo, xa ekubiza ngamagama amabi.
  - Ukunyoba,umzekelo xa ekuhlawulisa imali okanye efuna ukulala nawe ukuze akukhulule.
  - Ubusela, xa athe eba into yakho.

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Unakho ukufaka ibango lembuyiselo kuMphathiswa wamaPolisa ukuba amalungelo akho akahlonitshwanga.

Ukumangalelwa kwamapolisa

1. Xa ipolisa liye lakubetha okanye lalala nawe, qala **uye kwagqirha**. Oku kukukhusela impilo yakho nokuqokelela ubungqina. Kufuneka uye ngokukhawuleza phambi kokuba iziva nokugruzuka kuphele.
   - Ungaya kugqirha wakho okanye kugqirha karhulumente (obizwa ngokuba ngugqirha wesithili).
   - Ukuba ipolisa liye lalala nawe, umzekelo ukudlwengula, musa ukuhlamba okanye utshintshe impahla. Oko kungasusa ubungqina obunokusetyenziswa ukubophelela ipolisa.

2. Yiya kwisikhululo samapolisa esikufutshane kuwe xa ufuna **ukufaka isimangalo**. Hamba nomhlobo onje ngomfundisi, ititshala okanye unontlalontle onokukunceda ukuba uyafuna.

   - Ipolisa liya kuthatha ingxelo yakho. Ngamanye amazwi, liya kubhala phantsi yonke into oyithethayo ngokwenzekileyo kuwe. Yilumkele into oyithethayo kuba uza kuyifungela ukuba iyinyaniso.
   - Musa ukuyisayina ingxelo yakho ukuba akwanelisekanga yindlela eliyibhale ngayo ipolisa. Yitsho itshintshwe phambi kokuba uyisayine.
   - Asingomsebenzi wepolisa elikwiofisi yokumangala ukuthatha isigqibo sokuba sikufanele kusini na ukuphandwa isimangalo sakho. Wona kufuneka ethathe ingxelo yomntu wonke oze kumangala.
   - Emva kokuba uyenzile ingxelo, cela ikopi yengxelo yakho phambi kokuba umke. Unelungelo lokuyifumana ikopi yengxelo yakho.
   - Fumana inombolo yeriferensi. Le yinombolo yesimangalo sakho kwincwadi apho amapolisa afanele kugcina khona irekhodi yawo onke amatyala afakiweyo. Bubungqina bakho obo bokuba uluchazile ulwaphulo-mthetho kwiofisi yezimangalo.

3. **Fumana ingxelo kagqirha**. Xa wenzakele kwaye kufuneka ufumene unyango, amapolisa aya kukucela ukuba ufumane ifom yengxelo yonyango ekufuneka izalisiwe. Le fom ibizwa ngokuba yi-J88. Thatha le fom uye nayo kugqirha owakunyanga kuqala uze uyibuyisele emapoliseni. Bubuchule ukuba wenze ikopi yaloo fom uze uyigcine.

4. **Ukukhangela inkqubela yetyala**. Emva kokuba wenze ingxelo, amapolisa kufuneka evule idokethi aze aliphande. Gcina inombolo yesimangalo sakho uze umana ukhangela

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ukuba kuxa siphi na. xa ungoneliseki yinkqubela yaso, ungafaka isikhalazo kuMasitishi okanye kwi-*Independent Complaint Directorate.*

Kwenzeka ntoni xa uwoyika amapolisa?

Abathengisi ngemizimba abaninzi bayoyika ukumangalela amapolisa kuba becinga ukuba amapolisa aya kuziphindezela ngokubenzela nzima. Zikhona izinto onokuzenza ukuzikhusela kolo loyiko:

- Lisakube libanjiwe ipolisa, unakho ukucela umtshutshisi ukuba ayichase ibheyile yalo. Oku kubangelwa luloyiko lokuba ipolisa elo lisenokukugrogrisa okanye liphazamisane namangqina okanye ubungqina.

- Ukuba umantyi uyalinika ipolisa ibheyile, inokubakho imiqathango ehamba nebheyile leyo. Umzekelo, umantyi usenokuthi ipolisa elo kufuneka lingadibani nawe, lingakugrogrisi kwaye lingagrogrisi naliphi na ingqina.

Xa ipolisa elikhululwe ngebheyile lityeshela nawuphi na kule miqathango, kufuneka ukuchaze oko ngoko nangoko kumtshutshisi ophethe ityala lakho. Ipolisa liya kubanjelwa ukophula imiqathango yebheyile kwaye liya kuhlala eluvalelweni de kuqosheliswe ityala lalo.

Ibali elingokumangalelwa ngempumelelo kwamapolisa

Ngo-2007, abathengisi ngemizimba baseKapa bakhalaza ngelithi amapolisa athe rhoqo bebabamba nangona esazi ukuba abazukutshutshiswa. Iqela elaziwa ngokuba yi-*Sex Worker Education and Advocacy Task Force (SWEAT) lagqiba ekubeni* liyiphelise le ntlondi.

I-SWEAT yacela iNkundla ePhakamileyo yaseKapa ukuba ikhuphe ***isalelo*** **nomyalelo onqumamisa** amapolisa ukuba ayeke:

- Ukubamba abathengisi ngemizimba xa engenanjongo zokubasa enkundleni.
- Ukubamba abathengisi ngemizimba ngenjongo yokubaxhaphaza, yokubohlwaya nokuboyikisa okanye nangayo nayiphi na injongo engavunywanga ngumthetho.

Amapolisa aseKapa namapolisa e-*SA Cape Metropolitan Area* azithethelela ngelithi, ukubamba abathengisi ngemizimba yinxalenye yomsebenzi wawo wothintelo lolwaphulo-mthetho. Atsho esithi yingxaki yeGunya loTshutshiso ukungatshutshiswa kwabo emva kokuba bebanjiwe.

linkcazelo yegama

IGunya loTshutshiso: ICandelo le-179 lomGaqo-siseko weRiphabhliki yoMzantsi-Afrika 108 we-1996, uchaphazela ukumiselwa kweGunya loTshutshiso. IGunya loTshutshiso linegunya lokutshutshisa izenzo zolwaphulo-mthetho egameni likarhulumente, ukwenza nawuphi na umsebenzi ophathelele ekusungulweni nasekuqhutyweni kotshutshiso. Oku kuquka nokuphanda amatyala kwanokunqumamisa utshutshiso.
Umyalelo onqumamisayo: ngumyalelo wethutyana wenkundla okhutshelwa ukunqumamisa umntu kwinto ayenzayo.
Isalelo: umyalelo wenkundla owalela isenzo esithile.

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I-SWEAT yaliphumelela ityala layo. Ngomhla wama-20 kuTshaz'iimpuzi 2009, inkundla yayalela amapolisa ukuba ayeke ukubamba abathengisi ngemizimba ukuba abazi kuvela enkundleni. Yaqhuba yathi sinye kuphela isizathu sokubanjwa komntu kukuba avele kwiinkundla zamatyala, aye kuziphendulela kwisityholo abekwa sona. Xa amapolisa akholelwa ekubeni awakho amathuba okuba angatshutshiswa umntu, akanakho ukumbamba ngokusemthethweni.
Oku kuthetha ukuba amapolisa akanakho ukuntlonta abathengisi ngemizimba, bababambe kuba beboyikisa. Ukuba amapolisa ayababamba abathengisi ngemizimba, kufuneka akwenze oko ngenjongo yokubasa enkundleni yamatyala

Inqaku lephephandaba

'Abathengisi ngemizimba baseKapa bamangalele amapolisa ngempumelelo' , SAPA, 2009 04 20 The Citizen: Isicelo senkundla safakwa yi-*Sex Workers Education and Advocacy Task Force, Sweat*. Sasineengxelo ezifungelweyo zabathengisi ngemizimba abali-13, abakhoyo nabangasengabo, bechaza into uFourie awayibiza ngokuba "sisityholo sokuphatheka kakubi okanye ukuziphatha okungafanelekanga" okwenziwa ngamapolisa namapolisa kamasipala. UFourie utshilo ukuba amapolisa ayazikhanyela ezo zityholo kodwa akayikhanyeli into yokuba abathengisi ngemizimba babanjwa nangona abo bababambayo besazi ngokuphandle ukuba abo babanjwayo abayi kutshutshiswa.'' Enye ingxelo efungelweyo eyenziwa ngumphathi-sitishi waseClaremont yathi, kubathengisi ngemizimba abali-106 ababanjwa kwisiphaluka sabo ngowama-2006, akukho namnye kubo owavelayo enkundleni yamatyala. Into ecaciswa ziingxelo ezifungelweyo zabathengisi ngemizimba yeyokuba, emva kokuba bebanjiwe, bavalelwa kwizisele zamapolisa ubusuku bonke baze emva koko basiwe kwizisele zenkundla kamantyi ngentsasa elandelayo, apho bathi bakhululwe emva kokuvalelwa iiyure ezimbalwa,'' yatsho ijaji. "Yinto ebethelelwa qho ziinkundla zamatyala ukuba injongo yokubamba umntu kukuba avele phambi kwenkundla yamatyala, aziphendulele khona."

Uloyiso olukhulu lwabathengisi ngemizimba. NguKaren Breytenbach, (Cape Time, 21 April 2009). KWINTO ebonwe njengoloyiso olukhulu ekulweleni amalungelo abantu kubathengisi ngemizimba nakumanye amaqela angamaxhoba, iNkundla ePhakamileyo yaseNtshona-Koloni, izolo ikhuphe umyalelo wesalelo kwaye yanqumamisa amapolisa namapolisa kamasipala kwisiphaluka soMasipala ombaxa waseKapa ukuba ayeke ukubamba abathengisi ngemizimba xa esazi ukuba abazi kubekwa tyala okanye batshutshiswe.

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7. ILUNGELO LAKHO NJENGOMSEBENZI

Xa ungumthengisi ngomzimba osebenza kwindlu yamahenyukazi, umninindlu yamahenyukazi ngumqeshi wakho kwaye wena ungumsebenzi. Unamalungelo afanayo naye nawuphi na umsebenzi osebenza kwiimeko eziphucukileyo nophathwa kakuhle. Ukungabikho mthethweni kokuthengiswa kwemizimba akuthethi ukuba abanini-zindlu zamahenyukazi kufuneka bangayilandeli imithetho elawula abasebenzi.

Amalungelo abasebenzi angundoqo achazwe kwiCandelo lama-23 lomGaqo-siseko,emi ngolu hlobo:

1. *Wonke umntu unelungelo lokuphatheka kakuhle emsebenzini.*
2. *Nawuphi na umsebenzi unelungelo:–*
   (a) lokuseka nokungenela umbutho wabasebenzi;
   (b) lokuthatha inxaxheba kwizinto neenkqubo zombutho wabasebenzi
   (c) nokugwayimba.

Nazi ezinye iindlela angahlonitshwa ngayo amalungelo abasebenzi eendawo zamahenyukazi:

- Ukunyanzelwa ukuba usebenze iiyure ezinde.
- Abaqeshi bahlawulisa abasebenzi imidliwo engekho mthethweni.
- Izigrogriso zokwenza umntu umthengisi ngomzimba.
- Ukuthatha nawuphi na umthengi, ungakhethanga.
- Ukunyanzelwa ukuba uvavanyele intsholongwane kagawulayo.
- Ukugxothwa ngendlela engafanelekanga.

AMALUNGELO OMSEBENZI EMTHETHWENI

Amalungelo akho njengomsebenzi akhuselwe:

1. UmThetho wemiQathango yeNgqesho we-1997

UmThetho wemiQathango yeNgqesho umisela imigaqo yeemeko zokusebenza. Ukuba ungumphathi ophezulu,

Iiyure

- Akunakusebenza iiyure ezingaphezu kwama-45 ngeveki ngaphandle kokuba usebenza ixesha elongezelelweyo.
- Akunakusebenza ngaphezu kweeyure ezi-3 zexesha elongezelelweyo ngosuku neeyure ezili-10 zexesha elongezelelweyo ngeveki.

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Inkcazelo yegama

Umqeshi: umntu, iziko okanye inkampani eqesha abantu.

- Kufuneka ufumane ubuncinane iiyure ezili-12 zokuphumla qho ngemini.
- Kufuneka ufumane iintsuku ezingama-36 (iintsuku ezi-2 ezinesi-½ zokuphumla qho ngeveki. ICawe lusuku lokuphumla ngaphandle kokuba wena nomqeshi ninesivumelwano senu.
- Ukuba usebenza ebusuku, phakathi kwe-18:00 neye-06:00, umqeshi wakho kufuneka akuhlawule isibonelelo OKANYE akubonelele ngesithuthi esikhuselekileyo sokukugodusa.
- Kufuneka ube neyure enye yeisdlo sasemini emva kweeyure ezi-5 zomsebenzi, ngaphandle kokuba usebenza ngaphantsi kweeyure ezi-6 ngemini. Unakho ukuvumelana nomqeshi wakho ukuba uthathe isiqingatha seyure kwaye eso sivumelwano kufuneka sibhalwe phantsi.

Le migaqo ilandelayo yeeyure zomsebenzi azisebenzi xa:

- Ungumphathi ophezulu.
- Usebenza ngaphantsi kweeyure ezingama-24 ngenyanga.
- Xa ufumana ama-R89455 ngonyaka.

Ikhefu

- Unelungelo lokufumana ikhefu, ikhefu yokugula, ikhefu yokubeleka nekhefu yoxanduva lwekhaya.

Eminye imigaqo

- Akukho mntu umakanyanzelwe ukuba asebenze engafunil.
- Akukho mntu uvumelekileyo ukuba aqeshe umntwana ominyaka ingaphantsi kwe-15.

2. UmThetho wokuLingana eNgqeshweni we-1998

Injongo yalo mthetho kukumisela imeko yokulingana nokungacalucalulani emsebenzini. Ucacisa ukuba akukho mntu umakacalulwe ngenxa yobuhlanga, ngemeko yomtshato, ngesini, ngobuni okanye ngesizathu sokukhulelwa.

UmThetho wokuLingana eNgqeshweni ucacisa ukuba ukukhathaza ngezenzo zesondo luhlobo localucalulo. Ukwamisela imigaqo yokuxilongwa kwezonyango, yovavanyo lwentsholongwane kagawulayo novavanyo lobume bengqondo.

3. UmThetho wezeMpilo emSebenzini noKhuseleko we-1993

Injongo yalo mThetho kukuqinisekisa ukuba impilo nokhuselo lomntu wonke lukhuselekile ngethuba esemsebenzini. Ikho imigaqo ekufuneka ilandelwe ngabaqeshi kwaye abahloli banokuyindwendwela indawo yomsebenzi nanini na ukuqinisekisa ukuba iyalandelwa imigaqo.

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Njengomsebenzi, nawe unoxanduva lwempilo nokhuseleko lwakho. Kufuneka uzilondoloze kwaye ulandele izilumkiso njengokusebenzisa ikhondom.

Indawo yomsebenzi nganye kufanele inommeli wokhuselo. Kufuneka uchaze nayiphi na imeko engakhuselekanga okanye iingozi kuloo mntu ngokukhawuleza.

4. UmThetho wobuDlelwane babasebenzi we-1995

Lo mthetho uchaphazela indlela ekufuneka baphathane ngayo abaqeshi nabasebenzi. Uchaphazela amalungelo abasebenzi nawabaqeshi ngokubhekiselele kwizenzo zobulungisa, uthethathethwano lwemivuzo yabasebenzi nendlela yokusonjululwa kweembambano, amalungelo noxanduva.

UmThetho wobudlelwane babaSebenzi uquka imiba efana nale:

- Amalungelo abasebenzi okuseka nokungenela umfelandawonye wabasebenzi;
- Amalungelo abaqeshi okuseka nokungenela umbutho wabaqeshi;
- Amalungelo omfelandawonye wabasebenzi emsebenzini;
- Uthethathethwano lonyuso-mivuzo yabasebenzi;
- Amabhunga othethathethwano namaBhunga omThetho;
- Ukusekwa kwamaqonga omsebenzi avumela abasebenzi ukuba bathabathe inxaxheba kwizigqibo zabaphathi emsebenzini;
- Izenzo ezihle nezigwenxa emsebenzini;
- Imigaqo ekufuneka ilandelwe xa kugxothwa umsebenzi ngokufanelekileyo;
- Amaziko okusonjululwa kweembambano nemigaqo kuqukwa iCommission for Conciliation, Mediation and Arbitration;
- Ugwayimbo lwabasebenzi.

Isenzo esigwenxa sengqesho

UmThetho wobuDlelwane babaSebenzi wala isenzo esigwenxa sengqesho. Isenzo esigwenxa sengqesho siso nasiphi na isenzo esingenabulungisa emsebenzini, esiquka oku kulandelayo:

- Xa umqeshi enyusela okanye ehlisela umsebenzi ngokungenabulungisa okanye ambeke njengomlingwa;
- Isenzo esingenabulungisa esiphathelele kubonelelo ngoqeqesho;
- Xa umqeshi ephethe ngokungenabulungisa izibonelelo ezinjengomhlalaphantsi, isibonelelo sonyango, njl;
- Xa umqeshi egxotha umsebenzi ngokungenabulungisa (oku kuxoxwa ngokubanzi apha ngezantsi);

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Inkcazelo yegama

Ukusilela: Xa umntu ethe akayenza into ebemele ukuba uyenzile.

- Xa umqeshi engasiseliso isivumelwano kwaye esala ukuvumela umsebenzi ukuba abuyele emsebenzini;
- Xa umsebenzi ebekhalazele umqeshi kuba enze into engalunganga okanye engekho mthethweni waze umqeshi waziphindezela ngokwala ukunika umsebenzi isibonelelo anelungelo kuso.

Xa umqeshi ethe wenza nasiphi na isenzo kwezi zikhankanywe ngentla, ungathumela ingxelo yoko kwi-*Commission for Conciliation, Mediation and Arbitration (CCMA)* zingaphelanga iintsuku ezingama-90.

UKUGXOTHWA EMSEBENZINI KUNYE NOMTHETHO

Kukuthini ukugxothwa emsebenzini?

Ukugxothwa kuxa umqeshi ephelisa ingqesho yomsebenzi, umzekelo xa umntu eyekiswa okanye enziwe angabi namsebenzi. Umsebenzi angagxothwa emva kokwaziswa okanye ngaphandle kokwaziswa:

- Xa ugxothwe emva kokwaziswa, umele ukuba uhlawulwe lonke ixesha olisebenzileyo kwanayo yonke ikhefu eselungelweni lakho.
- Xa umqeshi exelela umsebenzi ukuba makayeke ukusebenza, aphume ngegeyithi ngoko nangoko, kukugxothwa kwesikhawu oko. Ufanele ukuba uhlawulwe yonke imali oselungelweni layo. Kukho imigaqo ethile ekufuneka eyilandele umqeshi xa egxotha ngesikhawu, kungenjalo ukugxothwa kuya kuba sisenzo esingenabulungisa.

Xa uthe wagxothwa kwaye ucinga ukuba ugxothwe ngendlela engenabulungisa, unakho ukufaka isikhalazo kwi-*Commission for Conciliation, Mediation and Arbitration (CCMA)* zingaphelanga iintsuku ezingama-30.

Ukugxotha okungenabulungisa

UmThetho wobuDlelwane babaSebenzi unemiGaqo yeNdlela eLungileyo yokuGxotha ekufuneka ilandelwe ngabaqeshi. Ukufaneleka kwako nakuphi na ukugxothwa kugqitywa ngokujonga imiba emibini, ukugoxotha ngokufanelekileyo nokugxotha okusemgaqweni.

Ukugxotha ngokufanelekileyo

Ukugxotha kuthathwa njengokufanelekileyo xa kuthe kwenziwa ngesizathu esihle nesifanelekileyo. Zithathu izizathu ezifanelekileyo zokugxotha umsebenzi, zezi:

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- Ukungaziphathi kakuhle: Umsebenzi wenze into engalunganga kakhulu (okt. ayenzekanga ngengozi okanye ngempazamo).
- Ukungabi nasakhono: Umsebenzi akasebenzi kakuhle okanye akakwazi ukuba angaqhuba esebenza ngenxa yokugula okanye yokukhubazeka.
- Ukudenda okanye ukungabi namsebenzi: Umqeshi uphungula abasebenzi, okanye umsebenzi utshintshile kwaye umsebenzi akanakho ukwenza umsebenzi ngendlela owenziwa ngayo.

Ukugxotha okusemgaqweni

Ukugxotha umsebenzi kusemgaqweni xa umqeshi ewalandele onke amanyathelo afanele kuwalandela phambi kokugxotha umsebenzi. Umsebenzi kufuneka alinikwe ithuba lokuziphendulela okanye aqeqeshwe kwakhona okanye afakwe kwesinye isikhundla.

Ukugxotha okungenabulungisa

Ezinye iindidi zokugxotha azifanelekanga kwaye azinabulungisa. Umqeshi akanakho ukugxotha umsebenzi ngaso nasiphi na isizathu kwezi zilandelayo:

- Ukuthatha inxaxheba okanye ukuxhasa ugwayimbo okanye uqhankqalazo olusemthethweni.
- Ukwala ukwenza umsebenzi womntu okugwayimbo olusemthethweni;
- Njengendlela yokukunyanzela ukuba wenze ngokokufuna kwakhe;
- Ngenxa yokuba uzame ukunyanzelisa ilungrlo lakho elisemthethweni njengomsebenzi;
- Kuba ukhulelwe;
- Ngenxa yebala, isini, ubuni, ubuhlanga, ubudala, ukhubazeko, inkolo, inkolelo, uluvo ngezopolitiko, inkcubeko, ulwimi, imeko yomtshato okanye uxanduva lwekhaya.
- Ngenxa yokuba uchaze ulwaphulo-mthetho okanye isenzo esingekho mthethweni esenziwe ngumqeshi wakho.

Manyathelo mani anokuthathwa xa umsebenzi egxothwe ngokungenabulungisa?

Xa unoluvo lokuba udlelwe indlala ngendlela ogxothwe ngayo, unakho ukucela umngeni kwindlela ogxothwe ngayo. Isahluko esilandelayo sichaza onke amanyathelo onokuwathatha ukwenza oko.

Xa ukugxothwa kwakho kufunyaniswa kungenabulungisa, kufuneka uhlawulwe imali eyimbuyekezo. Abasebenzi abakwicandelo lezomthetho basenokufuna ukubuyiselwa

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linkcazelo zamagama

Uxolelwaniso: xa sukuba amacala amabini angavumelaniyo ezama ukufikelela kwisivumelwano ngento ekufuneka yenzekile. Kuxolelwaniso, i-*CCMA* iba ngumlamli odibanisa la macala mabini.

Isigwebo: xa amacala amabini engavumelani, i-*CCMA* ithathela ingqalelo konke okuthethiweyo ize ithathe isigqibo. Isigqibo somgwebi sibophelela ngokusemthethwen, ngamanye amazwi, wonke umntu kufuneka asamnkele nokuba akavumi.

Isigwebo senkundla: Iindidi eziqatha zeembambano zinokuya kwiNkundla yezemiSebenzi, hayi kwi-*CCMA xa uxolelwaniso lungasebenzi.* INkundla yezemiSebenzi iya kuthatha isigqibo esibophelelayo ngokusemthethweni.

emsebenzini wabo kodwa oku akusebenzi xa ubusenza umsebenzi ongavumelekanga ngokwasemthethweni.

Imali eyimbuyekezo ingaba ngumvuzo weenyanga ezili-12 xa ugxothwe ngokungekho mthethweni. Ukuba ukugxothwa kwakho bekungenabulungisa ngokwesinye njengoko kuchaziwe ngasentla, unakho ukufumana umvuzo weenyanga ezingama-24.

8. INDLELA ONGANCEDA NGAYO UMTHETHO XA AMALUNGELO AKHO EMSEBENZINI ENGAHLONITSHWA

I-*Commission for Conciliation, Mediation and Arbitration (CCMA)* liqumrhu eliqwalasela ukugxothwa ngokungenabulungisa, iiyure zokusebenza ezingekho mthethweni nezinye izenzo zomsebenzi ezingenabulungisa. Xa unoluvo lokuba uphatheke ngendlela engenabulungisa, yindawo onokusa kuyo isikhalazo sakho leyo. Kufuneka usifake isikhalazo zingaphelanga iintsuku ezingama-30.

I-*CCMA* iya kuqala ngenkqubo yokuxolelanisa phakathi kwakho nomqeshi wakho.xa kungaphumeleli oko, baya kulandelisa ngenyathelo elilandelayo **elisisigwebo**.

UXOLELWANISO

Ukusiwa kwembambano kwi-CCMA

Xa uthe waphatheka kakubi kwaye ufuna ukusa imbambano kwi-*CCMA, nanga* amanyathelo ekufuneka uwathathile zingaphelanga iintsuku ezingama-30:

1. Zalisa ifom ebizwa ngokuba yi-LRA 7.11. Ungayifumana le fom kwiofisi yeengcebiso zomthetho okanye kwiwebhusayithi yeSebe lezemiSebenzi okanye kweye-*CCMA*. Lukho uluhlu lweeofisi zeengcebiso zomthetho ngasemva kule ncwadana.
2. Thumela ikopi yefom kumqeshi ngefeksi, ngerejista okanye uyise ngokwakho.
3. Thumela ifom kwi-*CCMA* ngefeksi, ngerejista okanye uyise ngokwakho. Faka ubungqina obubonisa ukuba umthumele umqeshi ikopi yefom. Ubungqina bungaba sisiliphu sefeksi, serejista okanye ingxelo efungelweyo ethi uyise ngokwakho ifom kumqeshi.

Uxolelwaniso nesigwebo kuxa sukuba uxolelwaniso nesigwebo ziza kwenzeka ngosuku olunye kwikhomishoni leyo. Ukuba akufuni kuqhubeke ngolo hlobo, yitsho njalo apho kwifom.

Kwenzeka ntoni xa ndisifake emva kwexesha isicelo kwi-CCMA?

Kufuneka ufake isicelo kwi-*CCMA* zingaphelanga iintsuku ezingama-30 ukuba ugxothwe ngokungenabulungisa okanye

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ezingama-90 ukuba ube lixhoba lesenzo sasemsebenzini esingenabulungisa. Kodwa naxa uthe waziphosa ezi ntsuku zokuvala, usenokuba nalo ithuba. Ungafaka isicelo soxolelo, okt ukucela i-CCMA ukuba ilandise ixesha lokuvala. Ungakwenza oko kwakule fom iyi-LRA 7.11 okanye i-*CCMA* ingafuna ukuba uzalise ezinye iifom kamva.

I-*CCMA* ayiyi kukuvumela nje ngokulula uxolelo. Kufuneka unike izizathu ezanelisayo zokuba usifake emva kwexesha isicelo sakho nokuba kubaluleke njani ukuba uvunyelwe ufake isicelo soxolelwaniso. Xa usenza isicelo soxolelo, kufuneka uqwalasele ngakumbi le miba:

- Sisemva kangakanani isicelo sakho: kangangeeveki, ziinyanga okanye ziintsuku nje ezimbalwa? Eli lithuba esisemva ngalo isicelo.
- Angakanani amathuba okuphumelela kwesicelo sakho?

Intlanganiso yoxolelwaniso

Sisakube siphumelele isicelo soxolelwaniso, ikhomishina yakwa-*CCMA* iya kucwangcisa indawo nomhla kwaye niya kwaziswa nomqeshi wakho.

Kwintlanganiso yoxolelwaniso, umkhomishina udibana nawo omabini amacala, akhangele indlela yokufumana isisombululo esiya kwanelisa amacala omabini. Intlanganiso ihlalelwa ngokwasencokweni njee kwaye umkhomishina usenokudibana namaqela kunye okanye ngokwahlukeneyo, kangangoko kuyimfuneko. Umkhomishina unelungelo lokubiza nabani na ukuba eze kunika ubungqina kuloo ntlanganiso.

Umkhomishina kufuneka azame ukufumana isisombululo zingaphelanga iintsuku ezingama-30. Wena nomqeshi wakho ninakho ukuvumelana nangasiphi na isigqibo.

Ekusongweni kwentlanganiso, umkhomishina uya kukhupha isatifikethi esichaza ukuba ingaba isombululekile ayisombululekanga kusini na imbambano.

Akunyanzelekanga ukuba uye wedwa kwintlanganiso yoxolelwaniso

Usenokumelwa ngugxa wakho emsebenzini, lilungu lombutho wabasebenzi okanye ligqwetha. Ngamanye amazwi, aba bantu bangathetha egameni lakho ngethuba lentlanganiso. Usenokuthatha umntu ongusinga-gqwetha, (umntu oqeqeshiweyo kwezomthetho engelilo igqwetha). Lo mntu akanakuthetha egameni lakho kodwa angamana ekunika amacebiso ngethuba lentlanganiso.

Umqeshi wakho naye unelungelo lokumelwa ngumsebenzi njengomlawuli wecandelo labasebenzi, ligosa lombutho wabaqeshi okanye ligqwetha.

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Xa umba ophethweyo ingowokugxothelwa ukungaziphathi kakuhle okanye ukungabi nasakhono, akukho magqwetha afunekayo ngaphandle kokuba umkhomishina uyakuvumela oko.

Ukuba kufuneka kukho igqwetha, kodwa awunakho ukulihlawula, ungenza isicelo kwibhodi yoncedo lwezomthetho. I-*CCMA* ingakuncedisa mayela nendlela yokwenza isicelo segqwetha.

Uxolelwaniso oluphumeleleyo

Xa wena nomqeshi wakho nifikelela kwisigqibo, uxolelwaniso luphumelele kwaye imbambano iphelela apho.

Kwenzeka ntoni xa isivumelwano soxolelwano saphulwe?

Isivumelwano enifikelele kuso ngethuba loxolelwano sibophelela wena nomqeshi wakho ngokusemthethweni. Xa omnye wenu ethe waphula isivumelwano, omnye angafaka isicelo kwiNkundla yezemiSebenzi ukuba iguqule isivumelwano isenze umyalelo wenkundla.

Nanga amanyathelo ekufuneka elandelwe:

- Fumana iifom zesicelo kwiRejista yeNkundla uze uzizalise.

- Faka ikopi yesivumelwano kunye nengxelo efungelweyo kwisicelo eso. Ingxelo efungelweyo kufuneka ichaze ukuba:

    - Imbambano yasiwa nini kwiqonga loxolelwaniso.
    - Yabanjwa nini intlanganiso yoxolelwaniso.
    - Senziwa nini isivumelwano.
    - Kwenzeka ntoni emveni kokuba senziwe isivumelwano.
    - Ingaba zikho na izinyanzeliso ezenziwayo.
    - Ingaba usigcinile na isivumelwano kwelakho icala.

- Sithumele isicelo eso nakumqeshi wakho. Oko iya kuba kukumazisa ngokusemthethweni ngesicelo ukuze angathi akazi nto ngaso.

- Faka isicelo nobungqina bokuba umazisile umqeshi kuRejista weNkundla.

Kubalulekile ukuba ufumane icebiso noncedo lomntu womthetho ekulandeleni la manyathelo. Ngemva kule ncwadi kukho uluhlu lwemibutho enokunceda.

Uxolelwaniso olungaphumelelanga

Xa amaqela omabini engafikelelanga kwisivumelwano, okanye umqeshi esala ukuzimasa intlanganiso yoxolelwaniso, umkhomishina uya kukhupha isatifikethi esichaza ukuba imbambano ayibanga nakusombululeka.

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Kwesi sithuba usenokuyithumela imbambano kwiqonga lesigwebo kwi-*CCMA*, okanye ithunyelwe kwiNkundla yezemiSebenzi ngenjongo yokuba iwise isigwebo. Ezi ndidi zilandelayo zeembambano zidla ngokugwetywa yi-*CCMA*:

- Isenzo somsebenzi esingenabulungisa esingabandakanyi ucalulo.
- Ukugxothelwa izenzo zokungaziphathi kakuhle.
- Ukugxothwa ngesizathu sokungabi nasakhono.
- Umgodlo
- Iimbambano ezingamalungelo ombutho wabasebenzi.
- Isityholo sokudendwa ngokungenabulungisa komsebenzi omnye.
- Ukwaphulwa kwesivumelwano nombutho wabasebenzi.

Ezi ndidi zilandelayo zithunyelwa kwiNkundla yezemiSebenzi apho zigwetywa khona:

- Iimbambano ezibandakanya ucalulo.
- udendo.
- Ukugxothwa ngokungenabulungisa.

Ukuba ukuya kwiNkundla yezemiSebenzi kubiza ixabiso eliphezulu, wena nomqeshi wakho ningavumelana ngokuba kugwebe i-*CCMA* endaweni yoko.

Isigwebo

Kwiqonga lesigwebo, ikhomishina ye-CCMA iya kunika isigwebo esibophelela ngokusemthethweni emva kokuphulaphula amacala omabini.

Ukuba nikhethe inkqubo yoxolelwaniso nesigwebo, isigwebo siya kwenziwa ngoko nangoko emva koxolelwaniso olungaphumelelanga. Ukuba ukhethe ukulwahlula uxolelwaniso kwisigwebo, naku ekufuneka ukwenze:

Yisa imbambano kwiqonga lesigwebo

1. Zalisa ifom eyi-LRA 7.143 (efumaneka kwa-CCMA).
2. Thumela ikopi yefom kumqeshi ngefeksi, ngerejista okanye uyise ngokwakho.
3. Thumela ikopi yefom kwa-CCMA ngefeksi, ngerejista okanye uyise ngokwakho. Faka ubungqina bokuba umthumele umqeshi ikopi yefom, umzekelo, isiliphu sefeksi, isiliphu serejista okanye ingxelo efungelweyo engqina ukuba uyise ngokwakho.

Uviwo lwembambano kwiqonga lesigwebo

I-CCMA iya kuchonga umkhomishina oya kuchophela isigwebo. Uviwo lwembambano kwiqonga lesigwebo luqhutywa kwimeko ebuncoko. Emveni kokuba kuviwe ubungqina kumacala omabini phantsi kwesifungo, umkhomishina uya kuwisa isigwebo

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esibophelela ngokusemthethweni kwaye kufuneka samnkelwe ngamacala omabini. Ukuba umkhomishina ubona ukuba umqeshi ube rongo, umkhomishina angayalela umqeshi ukuba athathe amanyathelo athile okanye ahlawule imbuyekezo.

Ngubani onokumela abasebenzi nabaqeshi kwinkqubo yesigwebo?

Usenokukhetha ukumelwa ngugxa wasemsebenzini, lilungu lombutho wabasebenzi okanye ligqwetha. Ngabantu aba abanokuthetha egameni lakho ngethuba lentlanganiso.

Umqeshi wakho naye unelungelo lokumelwa ngumsebenzi, njengomphathi wecandelo labasebenzi, igosa lombutho wabaqeshi okanye igqwetha.

Xa imbambano ingokugxothwa ngesizathu sokungaziphathi kakuhle okanye ukungabi nasakhono, akukho maggwetha afunekayo ngaphandle kokuba umkhomishina uyakuvumela oko.

Xa amagqwetha evunyelwa ukuba abekho kodwa ungabi nakho ukumelana neendleko zawo, ungenza isicelo kwibhodi yoncedo lezomthetho. I-CCMA ingakucebisa ngendlela okwenziwa ngayo oko.

Izibheno zezigwebo

Akukho **sibheno** sinokwenziwa kwisigwebo. Naliphi na icala linokucela iNkundla yezemiSebenzi ukuba iphononongе isigwebo, kodwa kuphela ukuba bacinga ukuba:

- Umgwebi wagqithisa kumagunya akhe.
- Kukho umba ongalunganga ngokwasemthethweni kwinkqubo.
- Umgwebi akayithathelanga ngqalelo imiba efanelekileyo ngokuhambelana nomthetho.

Kufuneka ucele uphononongo zingedlulanga iiveki ezi-6 emva kokuwiswa kwesigwebo.

ISIGWEBO SENKUNDLA YEZEMISEBENZI

Yintoni isigwebo senkundla?

Isigwebo senkundla sisigqibo ekufikelelwe kuso yinkundla nesibophelelayo kuwo omabini amacala. IiNkundla zezemiSebenzi zisekwe phantsi komThetho wobuDlelwane babaSebenzi kwaye zibekwe kwiinkundla eziphakamileyo kwiphondo ngalinye. Ziijaji zeenkundla eziphakamileyo namagqwetha aziincutshe kumthetho wezemisebenzi ngabo abasebenza kwiNkundla yezemiSebenzi. INkundla yezemiSebenzi ikumgangatho ofanayo noweNkundla ePhakamileyo.

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Ukusiwa kwembambano kwinqanaba lesigwebo senkundla

Xa imbambano isisiwa kwiNkundla yezemiSebenzi ngenjongo yesigwebo senkundla, tsalela umnxeba iRejista yeNkundla yezemiSebenzi ekufutshane kuwe ukuze ufumane iifom zokusa imbambano kwinkundla yezigwebo. Ijaji iya kumamela ubungqina kumacala omabini ize iwise isigwebo.

Ngoobani abanokumela abasebenzi nabaqeshi kwimbambano ekwiNkundla yezemiSebenzi?

Abasebenzi nabaqeshi bangamelwa ngamagqwetha. Xa ungenakho ukulihlawula igqwetha, ungenza isicelo segqwetha kwiBhodi yoNcedo lwezomThetho.

Izibheno kwizigwebo zenkundla

Xa kukho iqela elingonelisekiyo zizigqibo zeNkundla yezemiSebenzi, lingafaka isibheno kwiNkundla yeziBheno yezemiSebenzi.

IBALI LESIMANGALO ESAPHUMELELAYO SOMTHENGISI NGOMZIMBA EMANGALELE UMQESHI WAKHE KUNYE NE-CCMA

UKylie wayengumthengisi ngomzimba. Wayehlala kwindawo yomsebenzi wakhe, apho wayesebenza iiyure ezili-14 ngemini, iintsuku ezisi-7. Ngowama-2006, umninindawo waye wamgxotha engamnikanga saziso soko waza wamyalela ukuba ayishiye indawo yakhe. UKylie wakuthatha oko njengokugxothwa okungenziwanga ngobulungisa, waza ngoncedo lwe*Women's Legal Centre*, wawusa lo mba kwi-*CCMA*.

Kuqala, i-*CCMA* yagweba ngelithi ngenxa yokuba umsebenzi kaKylie ingumsebenzi ongekho mthethweni, i-*CCMA* ayinalungelo lokuyixoxa imbambano yakhe.
UKylie *neWomen's Legal Centre* bacela iNkundla yezemiSebenzi ukuba isiphonononge isigqibo se-*CCMA*. INkundla yezemiSebenzi yavumelana ne-*CCMA* ngelithi, ngenxa yokuba umsebenzi kaKylie ungekho mthethweni, akanalungelo lokufumana ukhuselo kuwo phantsi komThetho wobuDlelwane babaSebenzi.

INkundla yezemiSebenzi yasebenzisa umgaqo othi "akunakuthethelelwa xa uzibandakanya kwisenzo esilinyala". Ngamanye amazwi, xa ungenele isivumelwano esingekho mthethweni, akunakucela uncedo emthethweni xa izinto zingahambi kakuhle. Umzekelo, masithi umninindlu uqesha umguvela ukuba abethe umntu oqeshe kuye ongayihlawulanga imali yengqesho. Sisenzo esingekho mthethweni esi. Ukuba umninindlu akamhlawuli umgewu emveni kokuba ebethe umqeshi, umgewu akanakumangala ngokungahlawulwa kwakhe.

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INkundla yezemiSebenzi yaxoxa yathi, phantsi komThetho wobuDlelwane babaSebenzi, xa i-*CCMA* ifumanise ukuba umsebenzi ugxothwe ngendlela engenabulungisa, banakho ukugweba ngelithi loo msebenzi makabuyiselwe emsebenzini wakhe. Kodwa akukho nkundla yomthetho enokuyalela umntu ukuba enze isenzo esingekho mthethweni, kwaye ke ukuthengisa ngomzimba akukho mthethweni.

UKylie akazange ancame. Wasisa isikhalazo sakhe kwiNkundla yeziBheno yezemiSebenzi. Waxoxa ngelithi, phantsi kweCandelo 23 lomGaqo-siseko, wonke umntu unelungelo lokuphatheka kakuhle emsebenzini. Awutsho ukuthi, "oko kubhekiselele kubantu abenza umsebenzi osemthethweni, "uthi "wonke umntu." Waqhuba wathi iinjongo zomThetho wobuDlelwane babaSebenzi kukukhuthaza uphuhliso lwezoqoqosho nobulungisa kubo bonke abantu. Ukuthintelwa kwezenzo ezingezizo ezobulungisa nokuxhatshazwa kumele ukuba kubaluleke ngaphezu kobungqongqo bemiqathango yomthetho.

INkundla yeziBheno yezemiSebenzi yavuma. Yathi:

- Abathengisi ngemizimba banamalungelo omGaqo-siseko ngokufanayo naye nawuphi na umntu.
- Abantu abaqesha abathengisi ngemizimba kufuneka bawahloniphe loo malungelo.
- Iinkundla zamatyala azinakukhuthaza izenzo ezingekho mthethweni. Ngoko ke azinakuyalela ukuba umqeshi makabuyisele umthengisi ngomzimba emsebenzini wakhe. Into ezinokuyenza kukuyalela umqeshi ukuba ahlawule imbuyekezo.
- I-*CCMA* inamagunya kwezi zimangalo.

Inqaku lephephandaba

Umthengisi ngomzimba ugwetyelwe yiNkundla yeziBhene yezemiSebenzi kwimbambano yokugxothwa ngokungenabulungisa – Ernest Mabuza 31 kuCanzibe 2010, iBussiness Day – "Kwisigwebo seNkundla yezemiSebenzi apho uJaji Raymond Zondo nojaji Achmat Jappie baye bavumelana, uJaji Dennis Davis uthe icandelo lama-23(1) lomgaqo-siseko elithi wonke umntu unelungelolokuphatheka kakuhle emsebenzini, lenzelwa ukuqinisekisa ukuba isidima sabo bonke abasebenzi siyahlonitshwa kwaye indawo yomsebenzi kufuneka yakhelwe kwiziseko zobulungisa, ukungadlelwa ndlala kwamsebenzi nokuhlonitshwa kwabo bonke.

Ukuba ke ngoko eyona njongo yomThetho wobuDlelwane babaSebenzi kukufikelela kwezi njongo zibaluleke kangaka, iinkundla zamatyala kufuneka zikhusele abo basebenzi basemngciphekweni wokuxhatshazwa ngenxa yokuba bengabantu abangathathi ntweni nabona babuthathaka kunabaqeshi babo," waqhuba watsho uDavis.

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9. IINKCUKACHA ZOQHAGAMSHELWANO

EMPUMA-KOLONI

Ekufuneka ukwenze	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	eBhisho 043 706 6500
Ukufumana uncedo lwezomthetho	Legal Resources Centre	116 High Street Grahamstown, 6139 046 622 9230
Ukufumana intuthuzelo emphefumlweni	Life Line SWEAT Helpline	eMonti 043 722 2000 eBhayi 041 585 5581 0800 60 60 60
Ukufumana inkxaso emva kokudlwengulwa kwakho, komhlobo okanye kwesihlobo	Rape Crisis	Motherwell 041 462 2371
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres	Libode 047 568 6247 Mdantsane 043 761 2023

EFREYISTATA

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	051 406 6800
Ukufumana uncedo lwezomthetho	Legal Aid Board	Bloemfontein 051 447 2136 051 447 0902

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Ukufumana intuthuzelo yomphefumlo	Life Line SWEAT Helpline	057 352 2212 Kopano Service Point Cnr Long and Tempest Road Welkom 057 357 2225 0800 60 60 60
Ukufumana inkxaso, unyango, noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres	Tshepong 051 403 9639

ERHAWUTINI

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate Human Rights Commission	Johannesburg 011 220 1500 011 484 8300
Ukufumana uncedo lwezomthetho	Legal Resources Centre	Johannesburg 7th Floor, Bram Fischer 25 Rissik Street 011 836 9831 Pretoria 5th Floor Centenary Building Bureau Lane 012 323 7673
	National Prosecuting Authority	VGM Building (Corner Westlake & Hartley) 123 Westlake Avenue Weavind Park, Silverton 012 845 6000
	Tshwaranang Legal Advocacy Centre	011 403 4267
	Legal Aid Board	086 1053 425

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Ukufumana intuthuzelo yomphefumlo okanye inkxaso	Life Line SWEAT Helpline	Johannesburg 011 728 1347 Pretoria 012 342 2222 0800 60 60 60
Ukufumana inkxaso emva kokudlwengulwa kwakho, komhlobo okanye isihlobo	Rape Crisis	
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres	Kopanong 016 428 5959 Mamelodi 011 801 4504 Masakhane 011 933 1206 Nthabiseng 011 933 1206 Sinakekelwe 011 389 0675

KWAZULU-NATAL

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	031 310 1300
Ukufumana uncedo lwezomthetho	Legal Resources Centre	N240 Diakonia Centre 20 Diakonia Avenue Durban 4000 031 301 7572 031 304 2823

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Ukufumana inkxaso emva kokudlwengulwa kwakho, komhlobo okanye kwesihlobo	Life Line / Rape Crisis SWEAT Helpline	Pietermaritzburg 033 394 4444 Durban 031 312 2323 0800 60 60 60
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres	Phoenix 031 502 2338 Umlazi 031 907 8496

ELIMPOPO

Ukumangalela amapolisa	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	015 291 9800
Ukufumana inkxaso emva kokudlwengulwa kwakho, komhlobo okanye kwesihlobo sakho	Thohoyandou Victim Empowerment Programme	015 963 1222
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres SWEAT Helpline	Mangkweng 015 286 1261 Tshilidzini 015 964 3257 0800 60 60 60

EMPUMALANGA

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	015 291 9800 013 754 1000
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres SWEAT Helpline	Kanyemazane 013 796 9412 0800 60 60 60

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EMNTLA-KOLONI

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	053 807 5100
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres SWEAT Helpline	Galeshewe 053 830 8900 Kakamas 054 431 0057 0800 60 60 60

IPHONDO LOMNTLA-NTSHONA

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	018 397 2500
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	Thuthuzela Care Centres SWEAT Helpline	Mafikeng 018 383 7000 0800 60 60 60
	Tigane Advice Office	082 477 7182

ENTSHONA-KOLONI

Ekufuneka ukwenzile	**Iziko**	**Iinkcukacha zoqhagamshelwano**
Ukumangalela amapolisa	Independent Complaints Directorate	021 941 4800
Ukufumana uncedo lwezomthetho	Legal Resources Centre	54 Shortmarket Street Greenmarket Place 021 481 3000
	Women's Legal Centre	021 424 5660

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Ukufumana inkxaso emva kokudlwengulwa kwakho, komhlobo okanye isihlobo	Rape Crisis	Athlone 021 684 1180 Khayelitsha 021 361 9228 George 044 874 5122 Observatory 021 447 1467 Somerset West 021 850 4761 24 Hour Line 083 484 9409
	Mosaic	Wynberg 021 761 7585
Ukufumana inkxaso, unyango noncedo lwezomthetho emva kokudlwengulwa	SWEAT SWEAT Helpline	Observatory, Cape Town 021 448 7875 0800 60 60 60
	Simelela Centre	Khayelitsha 021 361 0543 24 Hour Toll Free line: 0800 33 01 01
	Thuthuzela Care Centres	Karl Bremer, Bellville 021 918 1321 Manenberg 021 691 6194

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AMANQAKU

WOMEN'S LEGAL CENTRE