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U.S. court sets new hearing on disabled inmates

Bob Egelko, Chronicle Staff Writer
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The state is responsible for meeting the needs of hundreds of disabled inmates and parolees temporarily held in county jails in California, a federal appeals court ruled Tuesday.

The federal law banning discrimination against disabled people prohibits the state from avoiding its responsibilities by contracting with counties or private companies to house the prisoners, said the Ninth U.S. Circuit Court of Appeals in San Francisco.

However, the court set aside a federal judge's September 2009 ruling requiring state officials to provide a list of disabled inmates to all counties and make sure they have access to grievance procedures.

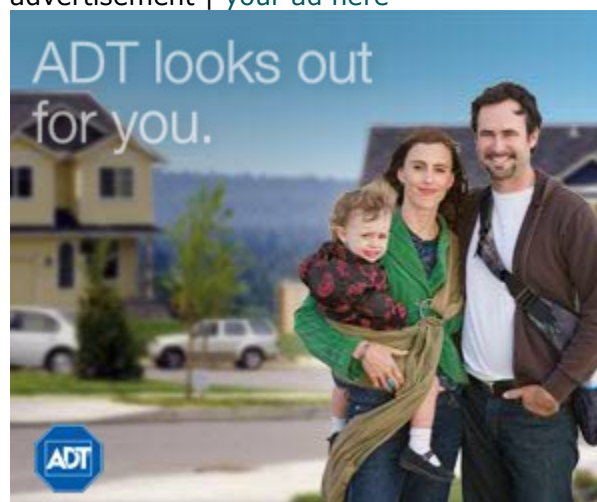
Lawyers for inmates who sued the state offered only scattered evidence of jailhouse violations of disability laws, such as reports of someone going without a wheelchair or an accessible bathroom, the appeals court said. But they're entitled to present more evidence to the judge at a new hearing, the court said.

The lawsuit dates to 1994 and resulted in a court-approved plan in 2001 to accommodate the needs of disabled inmates in state prisons. Tuesday's ruling applies to inmates who were sentenced to prison for felonies but are now in county jail for drug treatment, or were jailed after being arrested or resentenced for violating their state parole.

Despite assigning those inmates to county custody, the state remains responsible for maintaining equal access to educational and treatment programs and to "the fundamentals of life, such as sustenance, the use of toilet and bathing facilities, and elementary mobility and communication," Judge Stephen Reinhardt said in the 3-0 ruling.

The ruling is important because "the state is contracting out more and more" of its prisoners to local agencies, said Michael Bien, a lawyer for the inmates.

He said the court action was not aimed at requiring the state to provide wheelchairs, sign-language interpreters and other assistance to disabled jail inmates, but instead at ordering state prison and parole officials to notify counties about the inmates and their needs.



Attorney General Jerry Brown's office was reviewing the ruling and had no immediate comment, said spokesman James Finefrock. Brown's lawyers have argued that the state is responsible only for disabled inmates in state prisons.

E-mail Bob Egelko at begelko@sfgate.com.

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