

Court

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private, nonprofit New York State Association for Retarded Children, the New York Civil Liberties Union, the Legal Aid Society and other advocates and parents of the mentally retarded.

It accused Gov. Carey and state officials of violating a 1975 federal court consent decree that defined the proper environment, clothing, education, staff, nutrition and housing for retarded patients. The decree set a deadline of April 1981 for the reduction to 250 of Willowbrook's population.

"Good faith and efforts," Bartels said in his ruling, "are no excuse for failure to comply with provisions so necessary for the protection of the handicapped clients."

He ordered both sides in the dispute to file briefs proposing the duties of the special master, or overseer, and to nominate people for the position by May 14.

The state had not decided yesterday whether to appeal the ruling, according to its chief attorney, Taylor R. Briggs of LeBoeuf, Lamb, Leiby & McRae. "It's a defeat," Briggs said, "to the extent" the judge favored the plaintiffs.

Bartels granted every condition sought by the plaintiffs — including the overseer, the new deadline for emptying Willowbrook and upper limits on the size of group homes. He also ordered that taxpayer money be used to pay the court costs and attorneys' fees of the plaintiffs. The amount of those costs and fees has not yet been determined.

Robert M. Levy, one of the Civil Liberties Union lawyers who sued the state, urged both sides yesterday to "set aside their adversarial feelings." He added: "The governor has indicated a strong commitment to the mentally retarded. We want to make sure what we've started gets done properly."

In his ruling, Bartels upheld a

requirement of the consent decree that all group homes for the retarded should be no bigger than 15 beds. He also affirmed his own order of October 1979 that 115 physically disabled and mentally retarded patients living at Flower Hospital in Manhattan should be transferred to group homes no bigger than six beds.

The state had asked Bartels to let it establish group homes of 11 to 50 beds. State officials complained that the city's tight real estate market and the intensive medical staff and equipment needed by the Flower patients made small group homes impractical.

In denying the state's request, Bartels said: "The upward limit of 10 is based on experience" and is essential to providing a "nurturing, homelike environment."

While giving the state four more years to move residents of the Willowbrook institution into group homes, he suggested the state's efforts to crack the real estate market had been less than