

section.

Article 43, Section 137 sets out the conditions under which pregnancy may be terminated. It provides that an abortion must be performed by a physician licensed by the State in an accredited and licensed hospital, and can only be performed after a determination that one or more of the following conditions exist:

1. Continuation of the pregnancy is likely to result in the death of the mother or there is substantial risk that the pregnancy would gravely impair the mental or physical health of the mother;
2. There is substantial risk that the child will be born with grave and permanent physical deformities or mental retardation;
3. That the pregnancy resulted from a rape.

Two additional conditions in Subsection (b) that must be met before a pregnancy can be terminated are:

1. It must take place before twenty-six weeks of gestation have passed; and
2. Authorization be given by the hospital abortion review authority.

In Doe, supra, the Supreme Court reviewed a Georgia abortion statute which contained conditions similar to Article 43, Section 137(a). The Supreme Court affirmed the judgment of the District Court holding invalid certain portions of that statute which limited legal abortions to circumstances when: (1) A continuation of the pregnancy would endanger the life of the pregnant woman or would seriously and permanently injure her health; (2) The fetus would very likely be born with a permanent and irremediable mental or physical defect; or (3) The pregnancy resulted from rape. The situations covered by the Georgia statute are exactly the same as situations covered in Article 43, Section 137(a)(1), (2), (3) and (4). We, therefore, conclude that Article 43, Section 137(a) was rendered unconstitutional by the decision in "Doe to the extent that it limits termination of pregnancy to situations where one or more of the conditions are present.

The requirement of Article 43, Section 137 that the termination of pregnancy be performed in a hospital accredited by the JCAH and licensed by the State was addressed by Vuitch and Ingel, supra, in addition to Doe, supra. In Doe, the Supreme Court felt that the State had not adequately demonstrated that the full