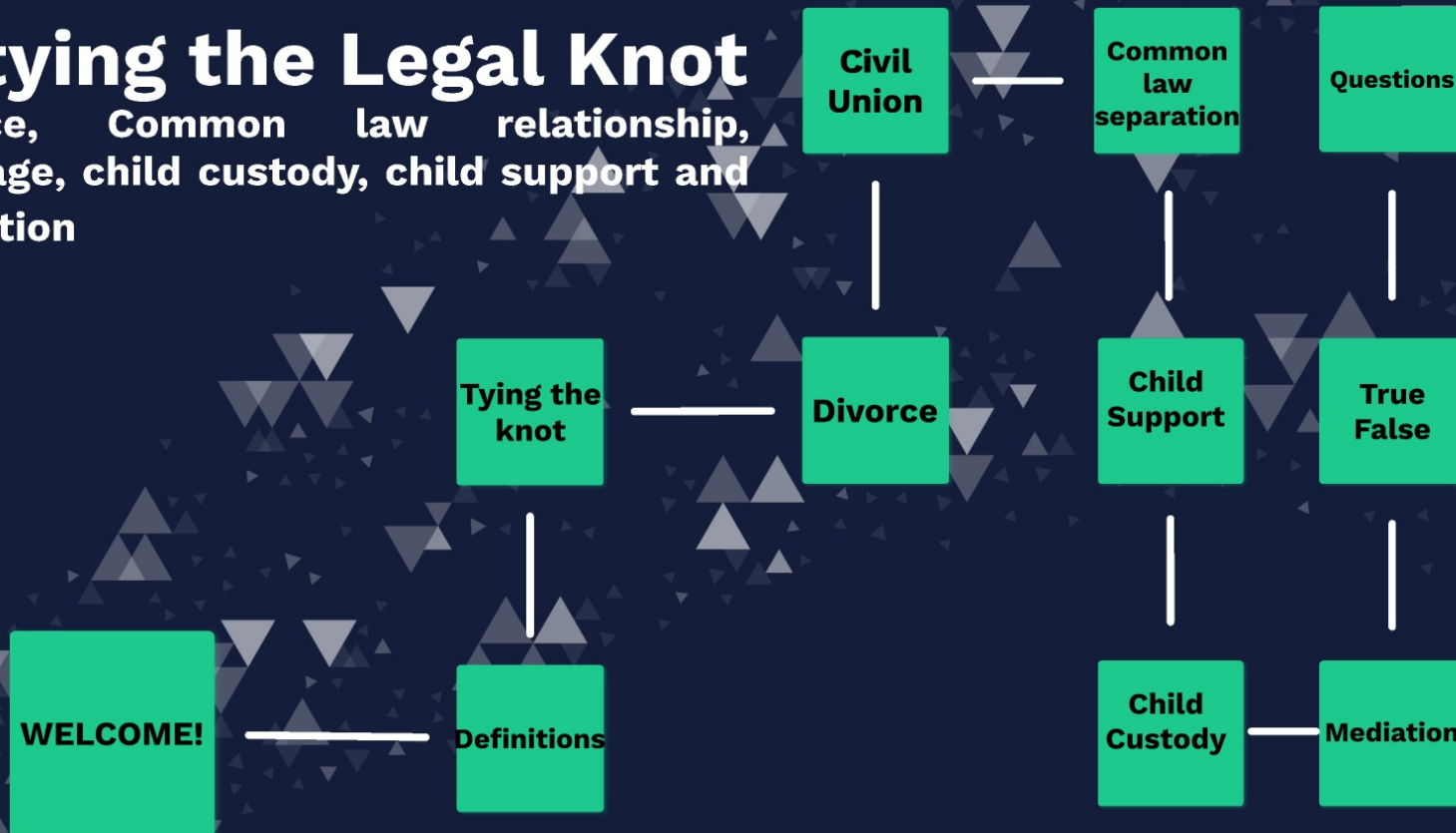


Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation

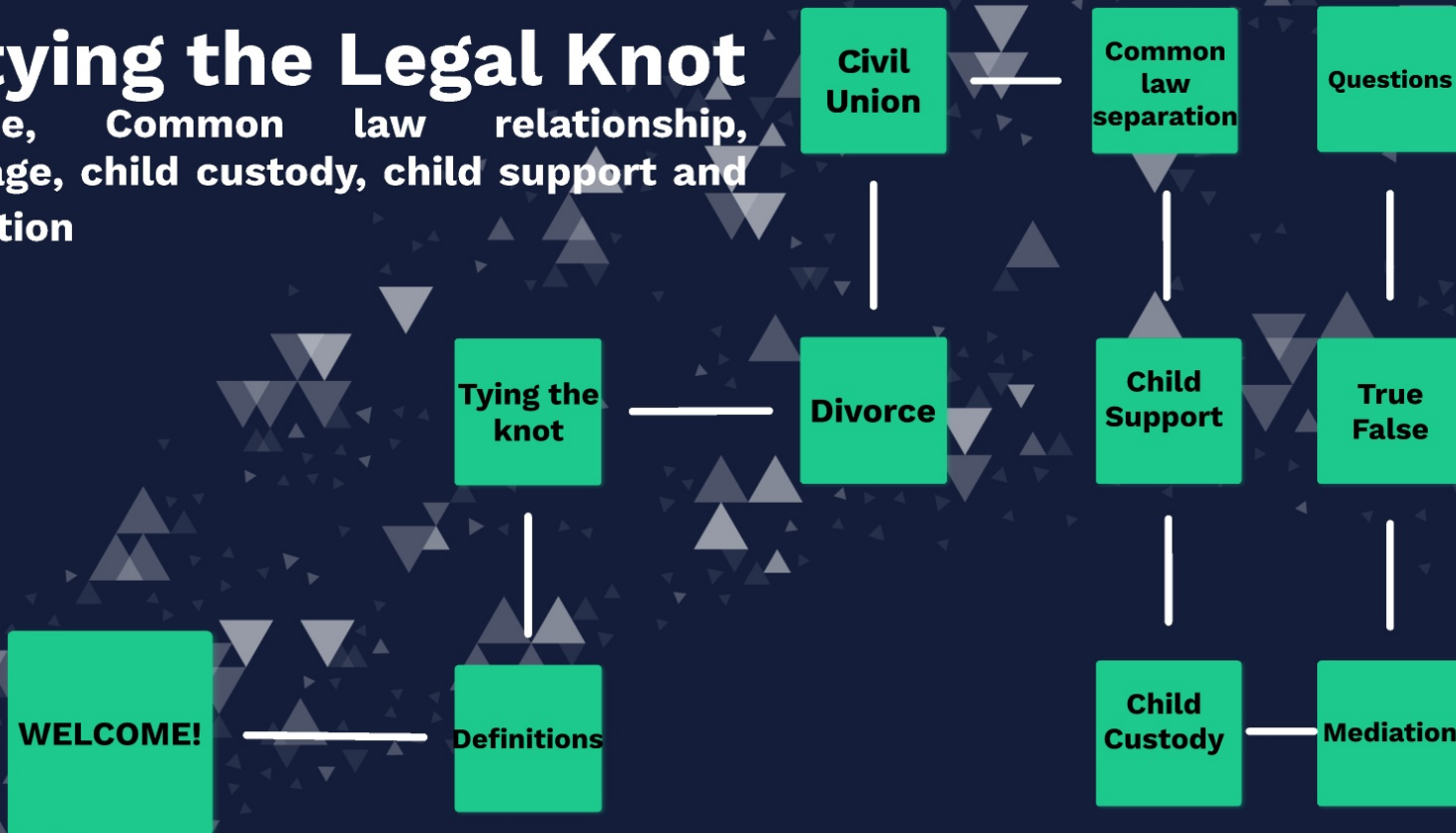




INTRODUCTION

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



Legal Jargon



Source: <http://steele.law.harvard.edu/tag/legal-dictionaries/>

Child
Custody

De
Facto
Couple

Legal
Separation

Child
Support

De Facto
Separation

Marriage

Civil
Union

Divorce

Matrimonial
Regime

Community
of Property

Family
Patrimony

Partnership of
Acquests

Separation
as to
Property

Child Custody

The care and upbringing of the child concerned

Child support

Money that one ex-spouse gives to the other to contribute to the needs of the children after their separation.

Civil Union

A legal union formed between two individuals that creates a series of rights and obligations between them.

Community of Property

- A specific type of matrimonial regime.
- Divided into three categories:
 - 1 - Private property of the husband
 - 2 - Community Property
 - 3 - Wife's reserved property
- An antiquated way of dividing property that is not popular in the current day.

De Facto Couple

(Common Law Couple)

- Two individuals who have a life together without being married or in a Civil Union.
- Much less rights and obligations
- Unless otherwise stipulated in a contract, there is no family patrimony or matrimonial regime.

De Facto separation

- De Facto/Common Law couple no longer want to have a relationship.
- No court decision needed.

QUESTION :

What may some benefits and some downfalls be of a De Facto separation?

Divorce

- The official ending of a marriage in the eyes of the law.
- Most obligations and rights towards one's ex-spouse no longer exist.

QUESTION :

What legal rights and obligations may still exist after a divorce?

Family Patrimony

A collection of different property that is created at the moment of marriage/formation of a Civil Union.

QUESTION :

What type of property do you think makes up the family patrimony?

Legal Separation

(Separation from Room and Board)

- When two individuals are still married/in a Civil Union, and no longer wish to live together.
- Only permitted by a court ruling.
- Does not end a marriage/Civil Union.
- The court may permit the dismemberment of the family patrimony and designate child support.

Marriage

- A legal union formed between two people.
- Creates a series of rights and obligations
- Creates a family patrimony

Matrimonial Regime

- Set of rules that determines the management of property and debts during the marriage.
- These rules determine how property will be divided upon the death of a spouse or if a divorce/Civil Union Dissolution occurs.
- Can be modified during marriage.

QUESTION :

What are different types of matrimonial regimes?

Partnership of Acquests

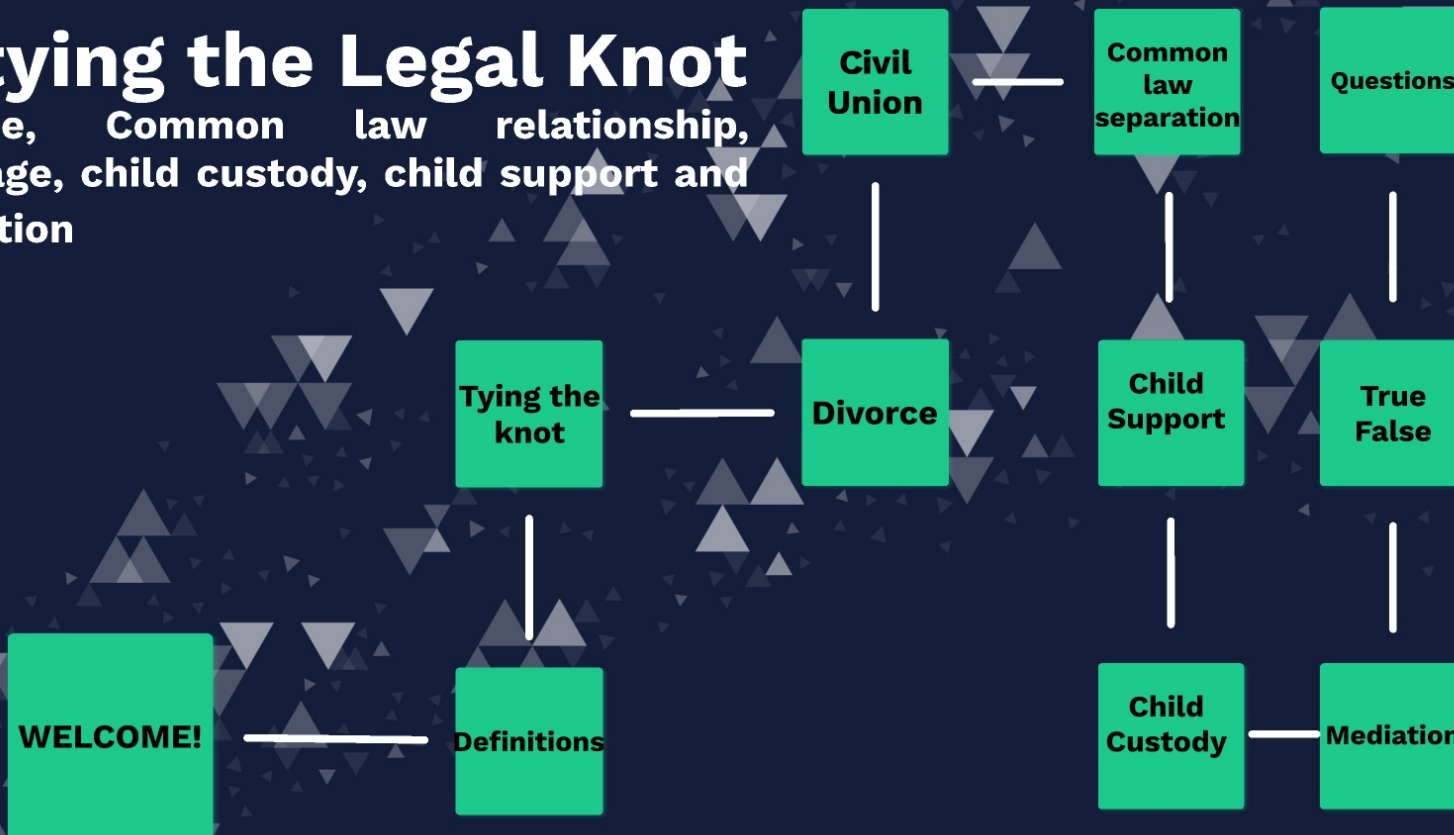
- Automatic matrimonial regime assigned to a marriage.
- Two types of property:
 - 1- Private Property : Property owned before the marriage
 - 2 - Acquests - Property acquired during the marriage.

Separation as to property

- Property of the spouses is never combined together.
- If there is a divorce or Civil Union Dissolution, there will be no matrimonial regime division.
- Only division upon divorce/Civil Union Dissolution would be the family patrimony

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



DEC-50
Déclaration de mariage

LIEU ET DATE DU MARIAGE

ÉPOUX (SE) Masculin Féminin

ÉPOUX (SE) Masculin Féminin

source: <http://www.etatcivil.gouv.qc.ca/fr/exemples/declaration-mariage.html>

DEC-55
Déclaration d'union civile

LIEU ET DATE DE L'UNION CIVILE

CONJOINT(E) M F

CONJOINT(E) M F

source: <http://www.etatcivil.gouv.qc.ca/fr/exemples/declaration-union-civile.html>

Marriage

Civil Union

De Facto Union

Marriage

- Legal union formed between two individuals
- Creates a series of obligations and rights (creation of a family patrimony, matrimonial regime, etc.)

Civil Union

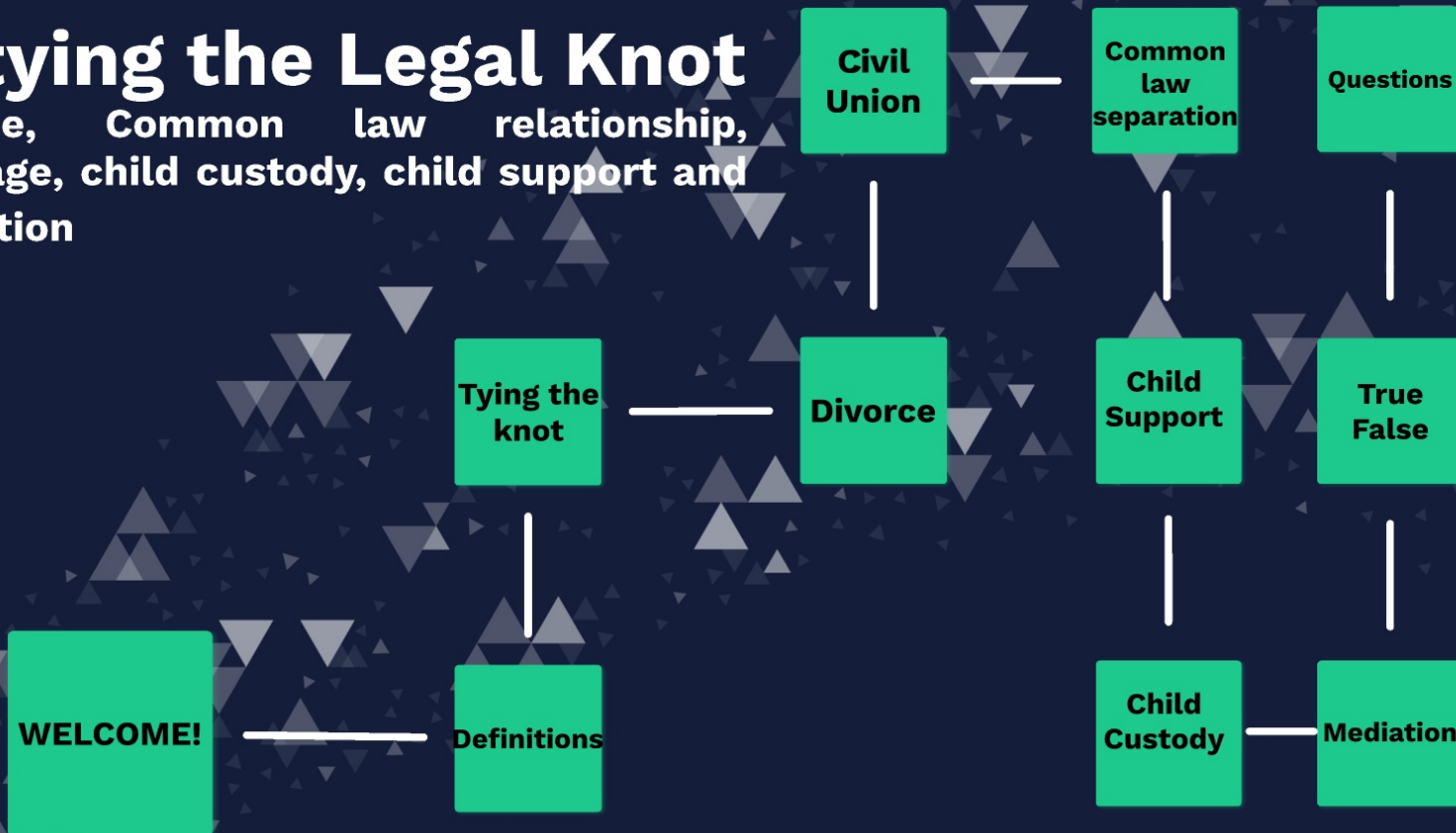
- A legal union between two individuals
- Creates a series of rights and obligations.

De Facto Union/ Common Law

- A relationship between two people that has no automatic legal rights or obligations.
- No exact legal definition in the Civil Code of Québec.

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



Divorce



Source: <https://pursuit.ca/women/a-diamond-is-forever-but-what-about-divorce/>

I want a divorce!

The Process

Effects

The breakdown of marriage: Grounds for getting a divorce

To get a divorce one of the following must be true :

- Spouses must live separately for at least one year before starting divorce proceedings.
- A spouse commits adultery
- A spouse treats the other spouse with mental or physical cruelty

The procedure

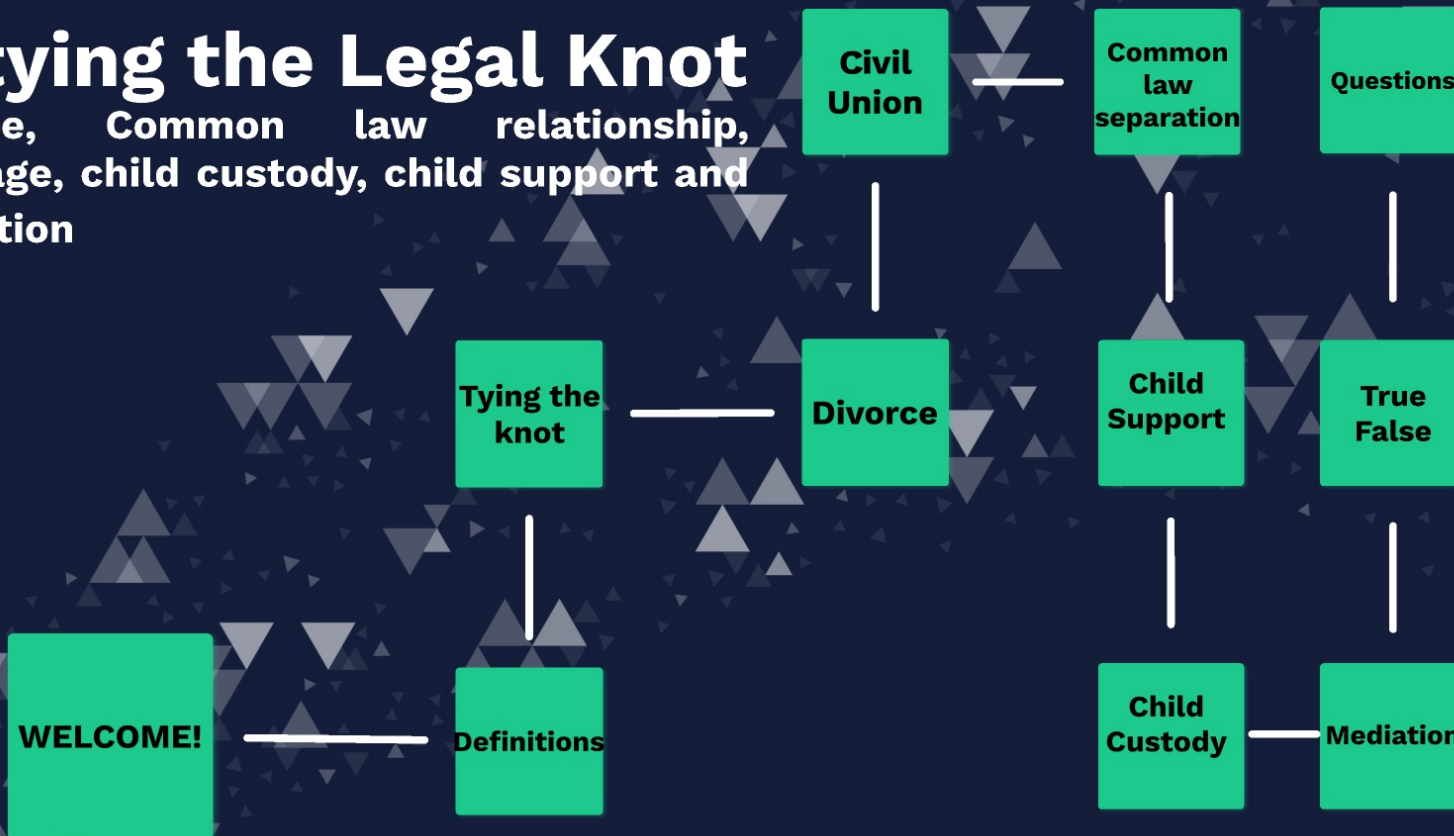
1. Prepare a divorce application
2. File the application at the court.
3. Have a bailiff serve the divorce papers to the spouse and await his response.
4. Prepare the Case Protocol
5. Wait and prepare for the trial date.
6. The trial and the decision.

What happens now?

- Division of the family patrimony
- Division of property according to the applicable matrimonial regime
 - Partnership of acquests
 - Separation as to property
 - Community of Property

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



Civil Union Dissolution



**Dissolution
vs.
Divorce**

**The
procedure**

**The
Effects**

What dissolves a Civil Union?

- Marriage
- Death
- Court Ruling
- Joint-notarial declaration

Dissolution by joint-notarial declaration

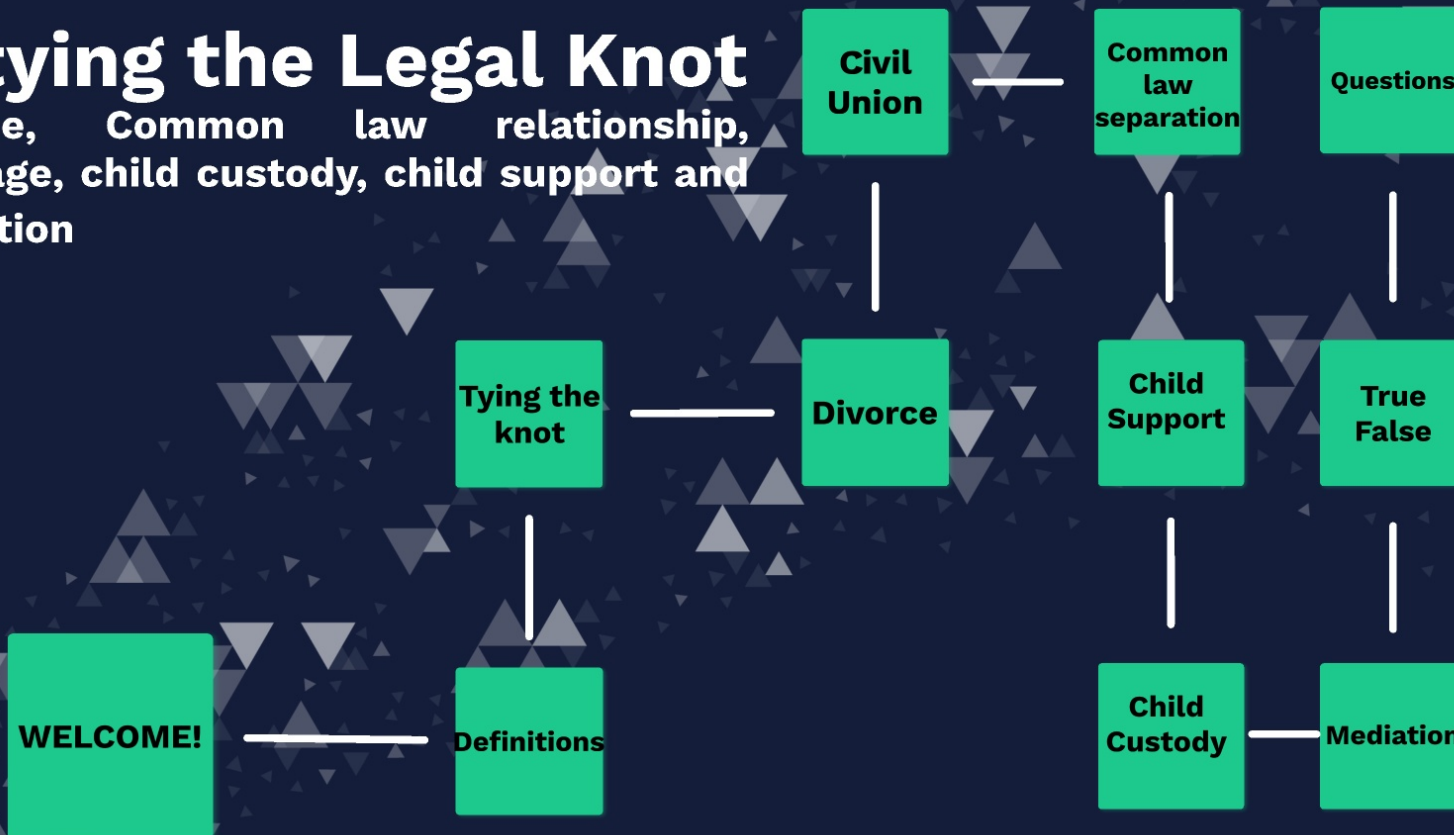
- The spouses must go to a notary, who will inform them of the effects of a dissolution.
- Two acts are required
 - **Notarial transaction record** - contract that establishes the value of the family patrimony.
 - **Joint-notarial declaration** - the declaration of the Civil Union dissolution.
- A copy of the Joint-notarial declaration is sent to the registrar of civil status and the depositories where the original civil union contract is and its possible modifications.

Effects

- Division of the family patrimony
- Division of property determined by the Civil Union Regime
- Rights and obligations towards ex-spouse no longer exist.

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



De Facto/Common Law Separation



Conditions?

**Children
&
ex-spouses**

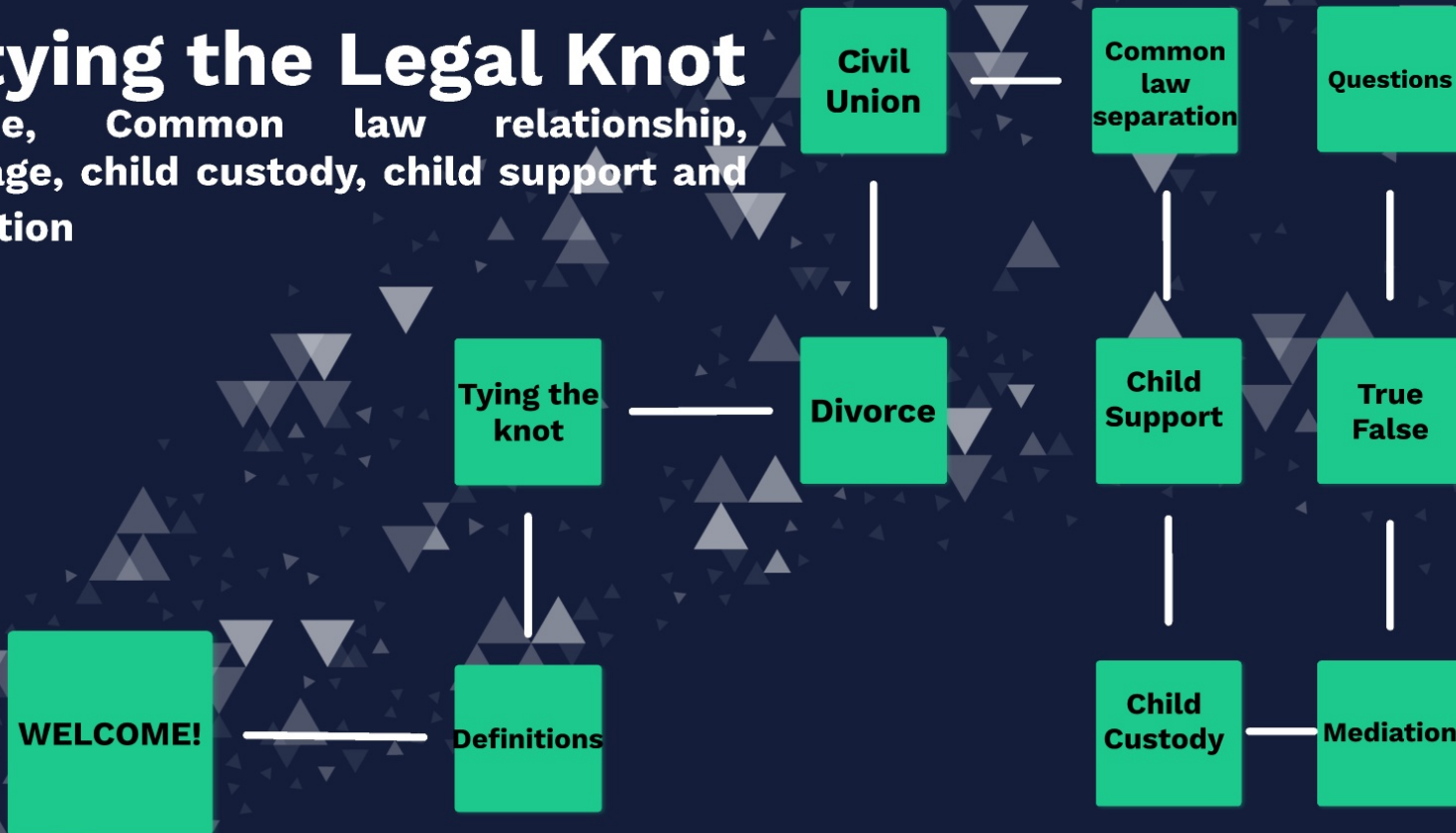
**What are the factors of
common law separation?**



**The effects of
separation on children
and ex-spouses**

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation





Who pays?

How much?

Determining factors

Who pays?

- The parent who does not have custody of the child pays
- In case of joint custody, each parent pays child support
- Child support can be claimed for both minor and children of full age



How much?

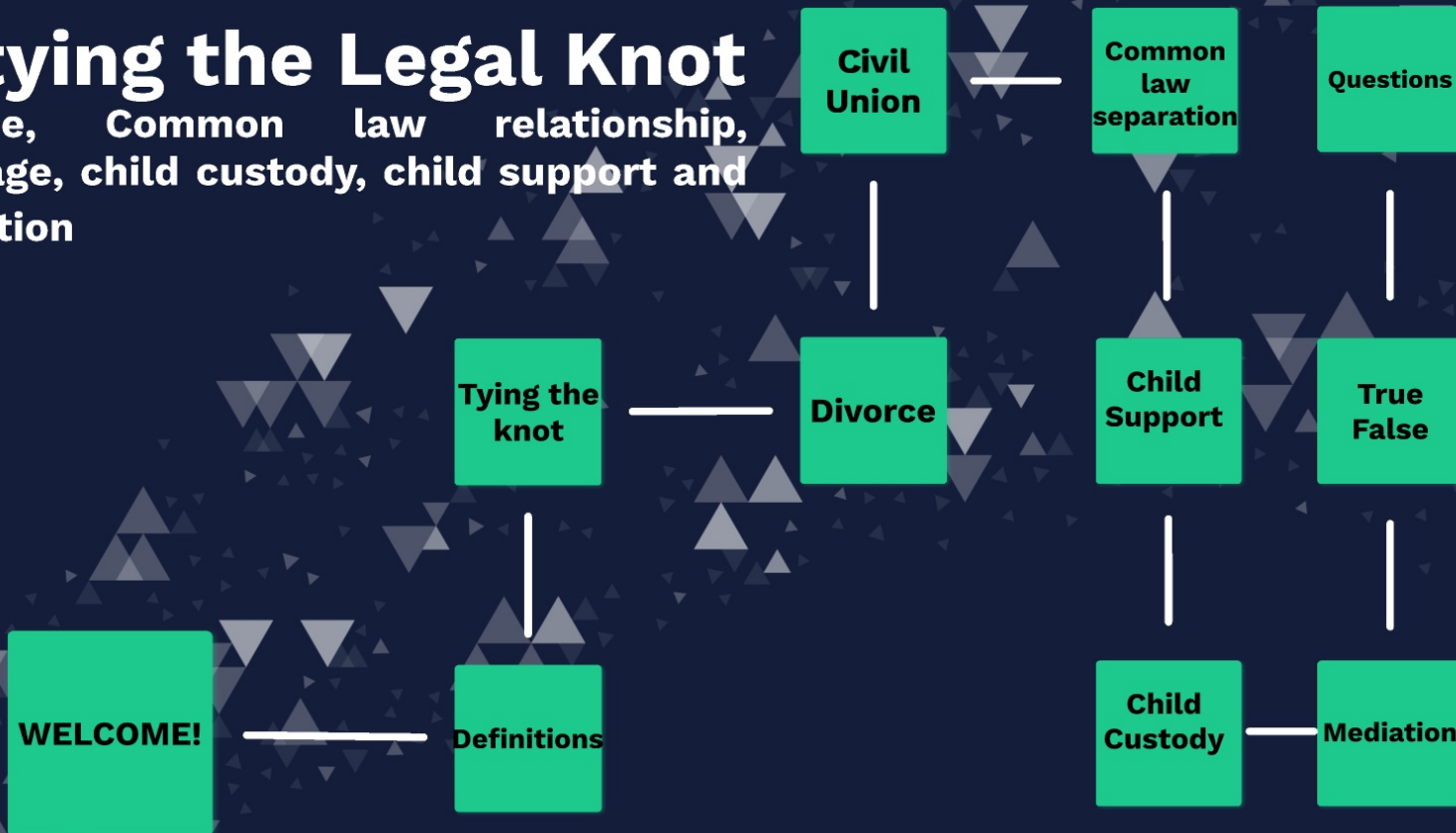
- Determined by courts
- Pre-made agreements between parents
- Adjustments are possible

Factors taken into consideration

- Circumstances:
 - Needs and means of each party
- Other factors:
 - Income, number of children, custody time, child care, post-secondary education, etc.
- Children of full age:
 - Studies, any impairments, illness or disability.

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation





The Battlefield that is Child Custody

2 types

Factors

Knowing your percentage: The time spent with your child

Joint custody: 40% and 60%

Sole custody: 60% or more

Visitation rights: 40% or less

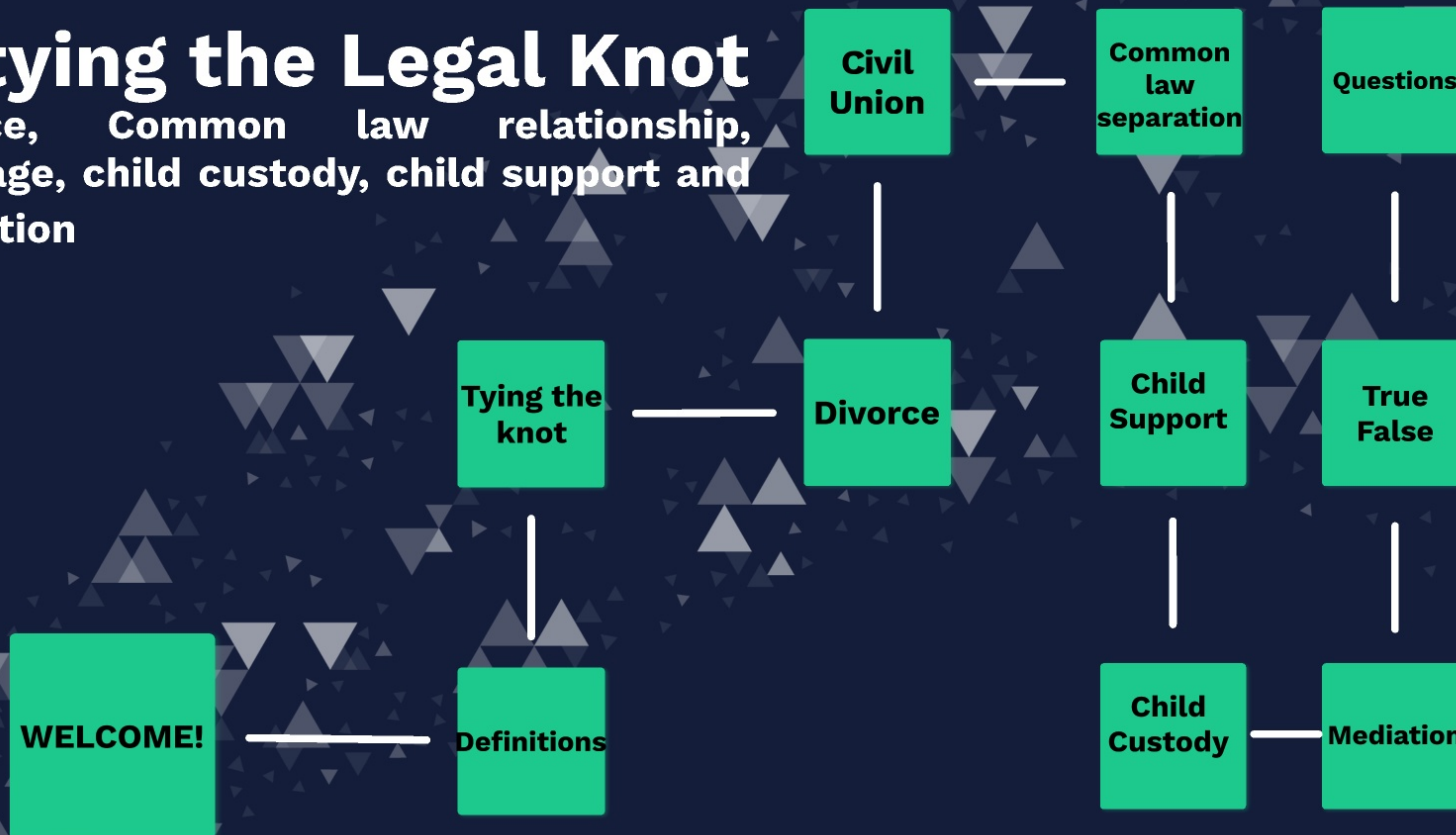
The different variables

- Multiple factors considered
- **Best interest** of the child
- Opinion of the child



Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



Cost

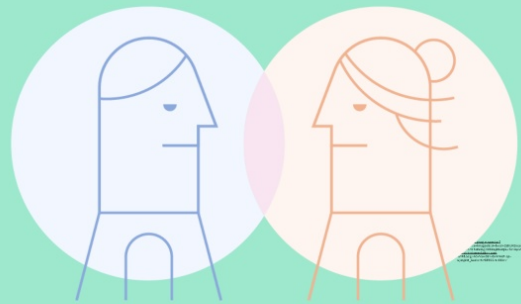
**The
Process**

**Parenting
and
Mediation**

NEGOTIATION THROUGH MEDIATION

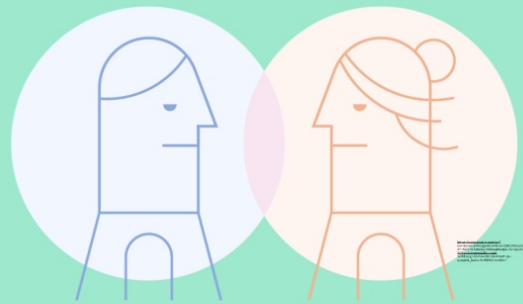
Fees of mediation

- Parties pay for mediator's fee
- Free mediation if children are involved



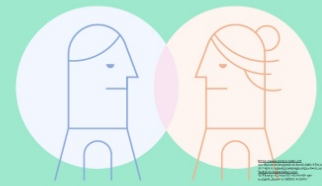
Process

- Evaluation of situation
- Negotiations
- Written agreement



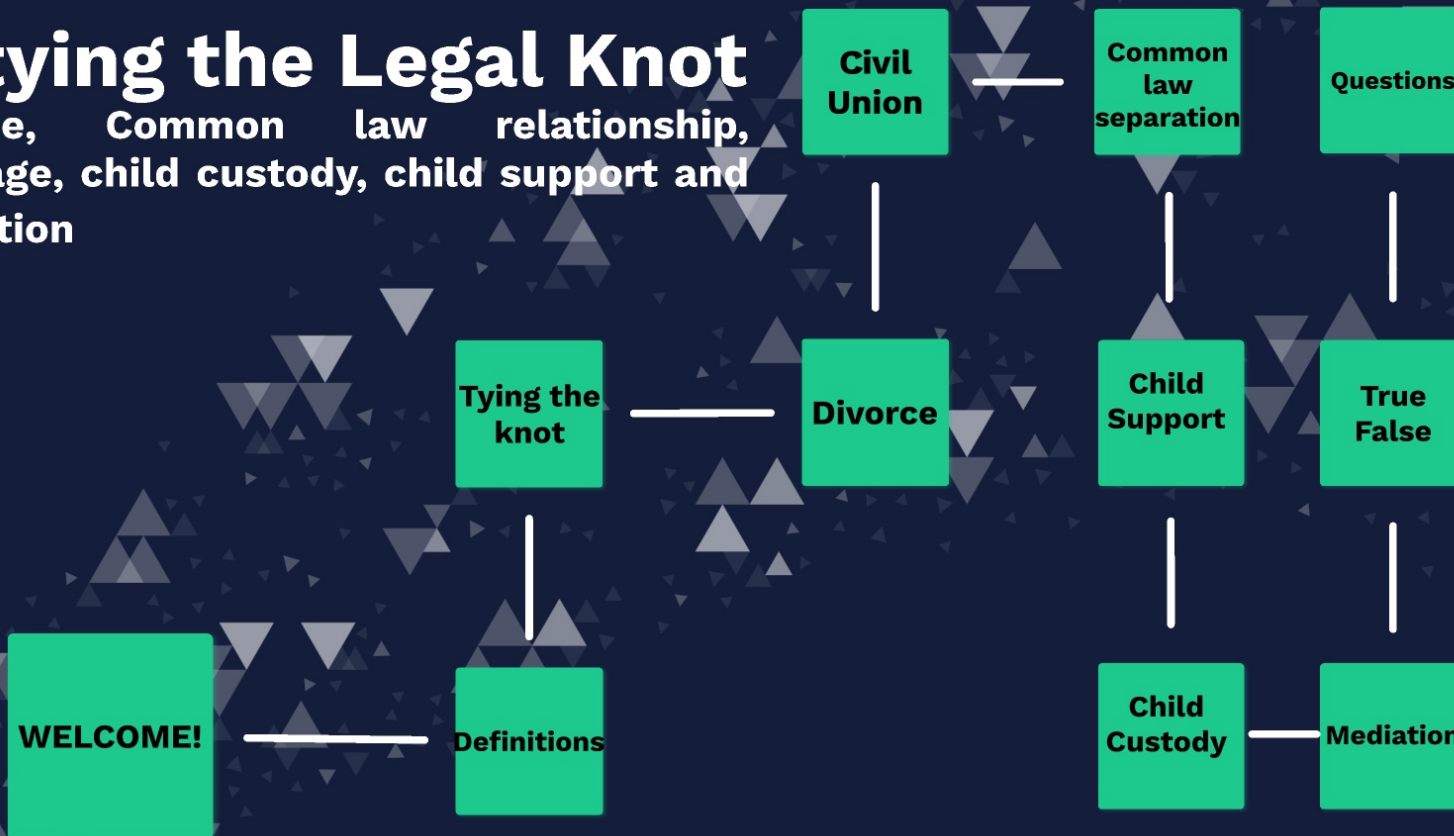
Mandatory sessions

- Mandatory:
 - Interest of the child
- Exceptions:
 - No children involved
 - Victim of domestic violence
 - Previous session attended
- Things to note:
 - No cost
 - Mandatory before going to court



Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation



Question
1

Question
4

Question
7

Question
2

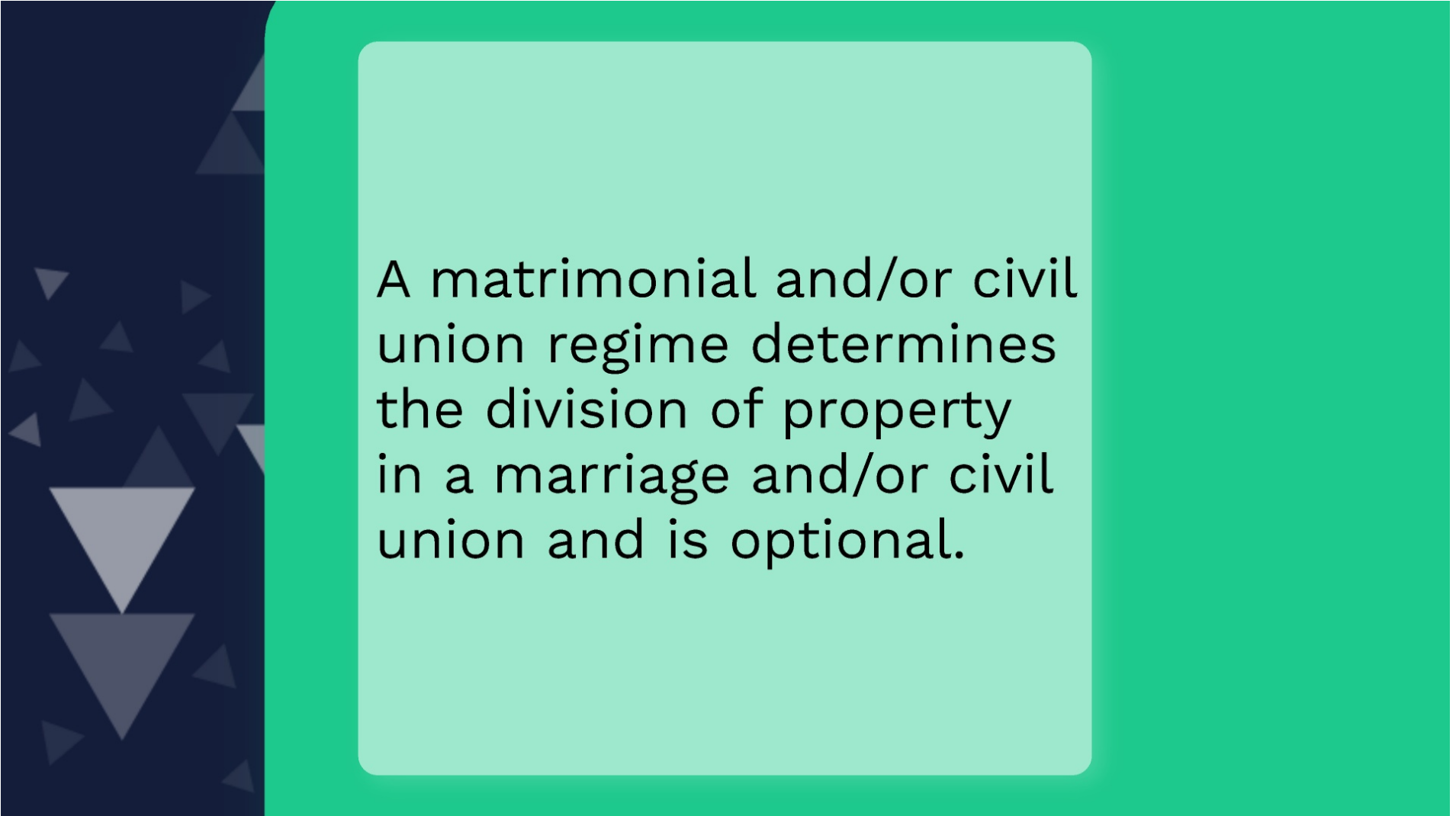
Question
5

Question
8

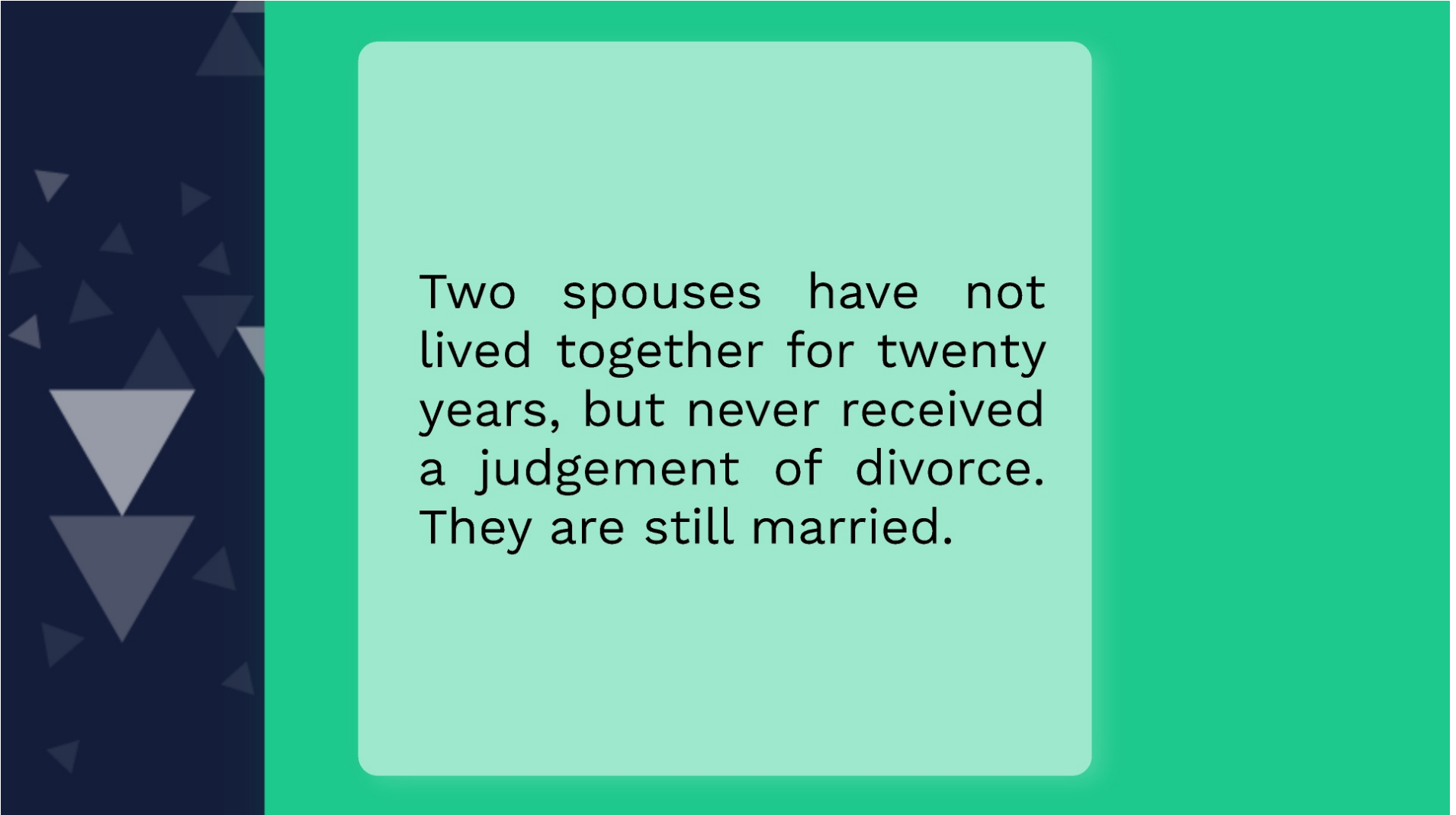
Question
3

Question
6


Question
9



A matrimonial and/or civil union regime determines the division of property in a marriage and/or civil union and is optional.



Two spouses have not lived together for twenty years, but never received a judgement of divorce. They are still married.



After fifteen years of living in a Common Law relationship, Laurie and Sandra decide to separate. They must divide their property and their family patrimony.

Genevieve cheated on her husband, Jean-Pierre. Jean-Pierre can request for a divorce due to adultery.

The process of getting a civil union dissolution is the same as getting a divorce.

The courts are the only ones who can decide the amount each spouse will pay for child support.

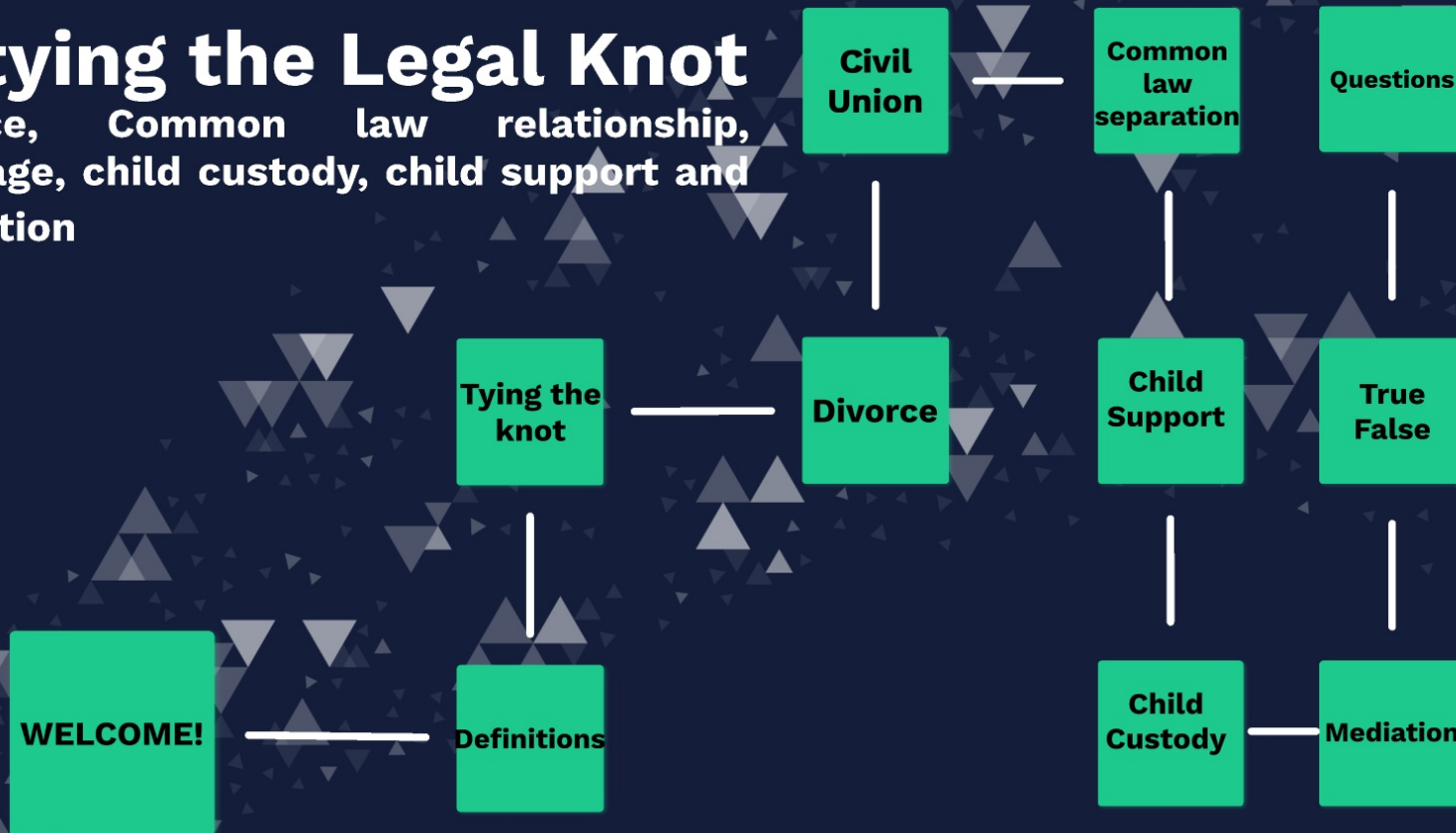
The child's opinion is the most important factor that the court evaluates when deciding child custody.

Mary has been a victim of domestic abuse. Patrick and her have one child together. Mary should go to the parenting and mediation session.

Mario has visitation rights, while Anne-Marie has sole custody. Mario is concerned because Anne-Marie is moving far away with their child. Mario can request a protection of his visitation rights.

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation





QUESTIONS

fin



THANK YOU

Untying the Legal Knot

Divorce, Common law relationship, marriage, child custody, child support and mediation

