SUPPORT OF UNIVERSAL BACKGROUND CHECKS

WHEREAS, the King County Bar Association’s mission includes promoting a just legal system, advancing excellence in the administration of justice, benefiting the community through its efforts, and speaking out on matters of public policy; and

WHEREAS, Chapter 9.41 of the Revised Code of Washington (Firearms and Dangerous Weapons), among other things, prohibits possession of firearms by individuals convicted, or found not guilty by reason of insanity of, a serious offense, as defined in the Chapter, or certain crimes committed against family or household members, as enumerated in the Chapter, and persons previously involuntarily committed for mental health treatment pursuant to procedures outlined in Chapters 71.05 (Mental Illness) and 10.77 (Criminally Insane - Procedures) of the Code; and

WHEREAS, Washington law and Federal law currently require background checks only for sales or transfers of firearms by licensed firearms dealers; and

WHEREAS, an estimated forty percent of firearms sales and transfers are from unlicensed sellers and transferors and thus, contrary to the intent of existing public policy, as reflected in Chapter 9.41 of the Revised Code of Washington, are not subject to a procedure for verifying that the applicable purchaser or transferee is eligible to possess a firearm under the Chapter; and

WHEREAS, current procedures used by licensed firearms dealers in conducting background checks in connection with the sale and transfer of firearms respect individuals’ rights to privacy; and

WHEREAS, Initiative 594, scheduled to be on the ballot in 2014, would close a gap in the enforcement of existing state law by requiring all firearm sales and transfers occurring, in whole or in part, in Washington, including sales at gun shows and online sales, subject to enumerated exceptions, to be subject to the same background check procedure already required for sales or transfers of firearms by licensed firearms dealers, prior to such sales or transfers; and

WHEREAS, Initiative 591, scheduled to be on the ballot in 2014, would cede to Congress and Federal regulators exclusive control over laws and regulations concerning background checks, if any, to be conducted in connection with sales or transfers of firearms in the state by making it unlawful for any government agency of the state to require any background checks on the recipient of a firearm, including, without limitation, by means of a private sale or transfer, unless a uniform national standard is required; and

WHEREAS, Initiative 591, by further proposing a prohibition on any government agency of the state confiscating guns or other firearms from citizens of the state without due process, incorrectly suggests
that guns and other firearms have been or may be confiscated from citizens of the state without due process, which is not an accurate reflection of existing state or Federal law pursuant to which citizens of the state are already afforded the protections of due process in connection with the confiscation of firearms; and

WHEREAS, the King County Bar Association has conducted a thorough, balanced review of issues related to background checks, including (1) holding meetings with supporters and opponents of Initiative 591 and Initiative 594 and (2) soliciting feedback from the Association’s membership; and

WHEREAS, the King County Bar Association has a long-respected tradition of speaking on issues related to the criminal justice system and educating the public on a wide range of legal issues, and Initiatives 591 and 594 implicate at least the following issues: (1) whether the State of Washington should cede authority to the federal government with respect to the issue of background checks connected to the sales of firearms; (2) interpretation and understanding of the Second Amendment to the United States Constitution and the Washington State Constitution; (3) principles of due process related to the regulation of firearms; (4) enforcement of existing state laws related to the possession and sale of firearms; and (5) public safety.

THEREFORE BE IT RESOLVED that the King County Bar Association supports efforts to treat all sales and transfers of firearms in the state equally, whether by licensed firearms dealers or through private sales and transfers, in order to promote public safety in the state by discouraging firearms sales and transfers to individuals who are not eligible to possess a firearm by Chapter 9.41 of the Revised Code of Washington.

RESOLVED FURTHER that the King County Bar Association supports the power of the people of Washington to regulate their own affairs, consistent with Federal law, including, without further limitation, the power to regulate the possession, sale, and transfer of guns and other firearms in the state in order to, among other things, promote public safety and, including within that power, the power to require background checks in connection with all sales and transfers of firearms.

RESOLVED FURTHER that the King County Bar Association supports the adoption of Initiative 594, cited herein, and opposes the adoption of Initiative 591, cited herein.

Approved by the Board of Trustees, March 19, 2014