Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. **Bill Number:** HB5093

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Watts

3. **Committee:** Public Safety

4. **Title:** Emergency Services and Disaster Law; powers and duties of the Governor; executive orders; penalty.

5. **Summary:** Under current law, a violation of an executive order declared by the Governor, including those declaring a state of emergency and directing evacuation, is punishable as a as a Class 1 misdemeanor. This bill provides that such a violation could be punished either as civil penalty of not more than $500 or a Class 1 misdemeanor. The bill requires that where an executive order declares a violation punishable as a civil penalty, the civil penalty must be charged by summons, which may be executed by a law-enforcement officer when such violation is observed by the officer. The proceeds of any civil penalty assessed must be paid and collected only in lawful money of the United States and credited by the state treasury to the Literary Fund.

6. **Budget Amendment Necessary**: No

7. **Fiscal Impact Estimates:** Preliminary. See Item 8 below.

8. **Fiscal Implications:** Currently, a violation of an executive order is punishable as a Class 1 misdemeanor, which carries a possible sentence of up to 12 months in jail. Under this bill, if an executive order is punishable as a civil offense instead, law-enforcement officers may issue a summons for such violations. In such cases, a civil penalty of up to $500 would be paid into the Literary Fund.

   This bill potentially would reduce the number of people sentenced to jail and increase the amount of fines deposited into the Literary Fund for future related offenses. It is not possible to estimate how many or the value of the penalties that might be assessed against a future executive order versus the number of people who might otherwise be charged with a misdemeanor for violating future executive orders. Consequently it is not possible to estimate the amount of fines that may be collected and deposited into the Literary Fund or the potential jail sentences that would be avoided.

   If jail populations are reduced as a result of this bill, it is not known if the result would be true savings or cost avoidance. The Commonwealth currently pays localities $4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these

costs on a per prisoner, per day basis varies from locality to locality; however, according to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged $34.07 per inmate, per day in FY 2018.

9. **Specific Agency or Political Subdivisions Affected:** Local and regional jails, courts

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None