§ 634. Subrogation. 1. (a) Acceptance of an award made pursuant to this article shall subrogate the state, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. Upon the payment of an award, the office may, by writing, notify the claimant that such claimant has ninety days, or thirty days prior to the date of expiration of the applicable statute of limitations, whichever period is shorter, within which to commence an action against his assailant or any third party who, as a result of the crime, may be liable in damages to the claimant. If the claimant fails to commence an action within the time provided herein, such failure shall, after written notification by the office to the claimant, operate as an assignment of the claimant's cause of action against the assailant or such other third party to the state; provided, however, that should the claimant's cause of action be in an amount in excess of the office's award, such assignment shall be for only that portion of the cause of action which equals the amount of the award.

(b) The office of victim services shall review those claims that have been approved by the office and that have resulted in an award in excess of one thousand dollars for the purpose of identifying those causes of action that are likely to result in recovery of the state's payment to the victim. The office shall submit a list of these claims on a monthly basis to the attorney general with all necessary information relating to the case including whether the claimant's cause of action has been assigned to the office.

(c) The attorney general may commence an action against the defendant convicted of the crime or third party for money damages to the extent of the award paid, and the claimant shall retain a right of action, subject to defenses, to recover damages for the full amount of loss incurred by him as a result of the crime less the amount assigned to the state by operation of this subdivision. Notwithstanding any other provision of law, an action brought by the attorney general pursuant to this paragraph against the defendant convicted of the crime must be commenced within seven years of the crime or pursuant to the time frames authorized in subdivision three of section six hundred thirty-two-a of this article. A claimant who retains such right of action shall be permitted to intervene in any action brought pursuant to this

subdivision by the attorney general. Any action brought by the attorney general may be compromised or settled provided the attorney general and the office find that such action is in the best interests of the state.

2. Acceptance of an award made pursuant to this article shall create a lien in favor of the state on the proceeds of any recovery from the person or persons liable for the injury or death giving rise to the award by the office, whether by judgment, settlement or otherwise, after the deduction of the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery, to the total amount of the award made by the office. Such lien shall attach to any moneys received or to be received by the claimant or victim on account of losses resulting from the crime. Should the claimant or victim secure a recovery from the person or persons liable for the injury or death giving rise to the award by the office, whether by judgment, settlement or otherwise, such claimant may, upon notice to the office, apply to the court in which the action was instituted, or to any court of competent jurisdiction if no action was instituted, for an order apportioning the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery. Such expenditures shall be equitably apportioned by the court between the claimant and the office. A copy of such lien shall be mailed to the clerk of the county within which the crime occurred and such clerk will file the copy in accordance with the duties of such clerk as set forth in section five hundred twenty-five of the county law. The amount of such lien may be compromised or settled by the office provided the office finds that such action is in the best interests of the state, or payment of the full amount of the lien to the state would cause undue hardship for the victim.

2-a. To the extent the office has made an award pursuant to this article for burial expenses, such amount shall be considered among reasonable funeral expenses of the decedent pursuant to subdivision one of section eighteen hundred eleven of the surrogate's court procedure act, to be recovered by the office, provided, however, that if a beneficiary of the victim's estate is also a person eligible to receive an award pursuant to section six hundred twenty-four of this article,

the office shall recover such amounts pursuant to subdivision two of this section to the extent an award has been made to such person, prior to pursuing recovery from the victim's estate. Any recovery from a victim's estate under this subdivision shall reduce the state's lien under this section to the extent of the recovery by the office.

3. Any claimant who has received an award under this article, or his guardian, judicially appointed personal representative, or his estate, who brings an action for damages against the person or persons liable for the injury or death giving rise to an award by the office under this article shall give written notice to the office of the commencement of such action at the time such action is commenced. Such notice shall be served personally or by certified mail, return receipt requested.

4. The attorney general may intervene, as of right, in any such action on behalf of the state of New York for the purpose of recovering the subrogated interest due the state of New York under the provisions of this article.

5. The director shall adopt rules and regulations to carry out the provisions and purposes of this section.

6. The office shall compile information on the number of cases submitted to the attorney general, the number of actions instituted by the attorney general to recover payments made to crime victims, the dollar amount of recoveries made in such actions both on behalf of the state and any awards made to victims who intervene in such actions. The office shall include this information, and any recommendations to the governor and legislature to improve the collection of awards, in its annual report.